84TH CONGRESS
2d Session

SENATE

REPORT
No. 2377

COMMUNIST OWNERSHIP OF GI SCHOOLS

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

MADE BY ITS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

JUNE 28, 1956.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
71006 WASHINGTON : 1956

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[1] Senator Strom Thurmond resigned April 5, 1956; Senator Thomas A. Wofford was appointed to the Government Operations Committee April 18, 1956.

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Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

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INTRODUCTION

In 1954 the Senate Permanent Subcommittee on Investigations received allegations that certain private schools owned and controlled by Communists were approved to teach and train World War II and Korean veterans. A preliminary inquiry by the staff indicated that at least four such schools had received a total of over $3 million from the United States Government for veterans' tuition since 1945.

This subcommittee is charged with the responsibility of looking into the efficiency and economy of the executive branch of the Government. An expenditure of Federal funds such as this which will, directly or indirectly, support Communist causes or institutions is, to say the least, neither an efficient expenditure nor one that is in the best interest of the United States.

It therefore became incumbent upon this subcommittee to institute this investigation for the purpose of determining—

(1) If the Veterans' Administration is or has been authorizing the payment of Federal moneys for veterans' tuition at Communist owned or controlled schools and, if so, the reason therefore; and

(2) Whether amending legislation in this area is desirable.

To accomplish this purpose a full staff investigation was ordered. Thereafter, executive and public hearings were held January 18, February 2, 6, 1956, at which 13 witnesses appeared and testified.

PERTINENT FEDERAL LAWS

At the outset of this investigation it became necessary for the subcommittee to consider the following United States laws governing

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the Veterans' Administration with respect to education and training programs for World War II and Korean war veterans:

Public Law 346, 78th Congress, June 22, 1944, as amended: Provides education and training and other benefits for veterans of World War II.

Public Law 550, 82d Congress, July 16, 1952, as amended: Provides education and training and other benefits to veterans of the Korean war.

Public Law 16, 78th Congress, March 24, 1943: Provides for the vocational rehabilitation of disabled veterans of World War II.

Public Law 894, 81st Congress, December 28, 1950: Extends the benefits of Public Law 16, 78th Congress, to veterans of the Korean war.

Investigation has revealed that a serious problem concerning Communist-owned schools is presented by Public Laws 346 and 550.

It is the position of the Veterans' Administration that, under the provisions of Public Law 346, an eligible veteran may attend any school approved by a recognized State approving agency. Thus, if a school is properly approved and an eligible veteran elects to attend that school, the Veterans' Administration has no alternative but to expend Federal funds for his tuition, even though that school might be owned or dominated by Communists.[1]

The Veterans' Administration contends that it is similarly restricted by like provisions of Public Law 550, 82d Congress.[2]

Public Law 550 does, however, contain a provision prohibiting the Administrator of Veterans Affairs from paying education or training allowances to any eligible veteran attending educational institutions which had been listed by the Attorney General as subversive organizations.[3]

Although there is no similar provision in Public Law 346, beginning in 1948 the Administrator of Veterans Affairs adopted the policy of not paying any Federal funds for the education of veterans attending schools on the Attorney General's subversive list.[4]

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[1] This position of the Veterans' Administration is based upon the following provisions of Public Law 346, 78th Congress:

Paragraph 3 of title II of Public Law 346 provides that a veteran "shall be eligible for and entitled to such course of education or training * * * as he may elect and at any approved education or training institution at which he chooses to enroll, whether or not located in the State in which he resides which will accept or retain him a a student or trainee in any field or branch of knowledge which such institution finds him qualified to undertake or pursue * * *."

Paragraph 4 of the same title provides: "From time to time the Administrator shall secure from the appropriate agency of each State a list of the educational and training institutions, within such jurisdiction, which are qualified and equipped to furnish education or training, which institutions, together with such additional ones as may be recognized and approved by the Administrator, shall be deemed qualified and approved to furnish education or training to such persons as shall enroll under this part: * * *."

Paragraph 8, title II, reads in part as follows: "No department, agency, or officer of the United States, in carrying out the provisions of this part, shall exercise any supervision or control, whatsoever, over any State educational agency, or State apprenticeship agency, or any educational or training institution: * * *."

[2] Sec. 221, pt. III, title II of Public Law 550, provides that—

"* * * Each eligible veteran may select a program of education or training to assist him in attaining an educational, professional, or vocational objective at any educational institution or training establishment selected by him whether or not located in the State in which he resides, which will accept and retain him as a student or trainee in any field or branch of knowledge which such institution or establishment finds him qualified to undertake or pursue * * *."

Pt. V of title II of Public Law 550 relates to State approving agencies.

Section 242 thereof reads in part:

"(a) An eligible veteran shall receive the benefits of this title while enrolled in a course of education or training offered by an educational institution or training establishment only if such course is approved by the State approving agency for the State where such educational institution or training establishment is situated or by an Administrator * * *."

Section. 263, pt. VII of title II provides:

"No department, agency, or officer of the United States, in carrying out this title, shall exercise any supervision or control, whatsoever, over any State approving agency, State educational agency, or State apprenticeship agency, or any educational institution or training establishment * * *."

[3] Sec. 228, pt. III, title II of Public Law 550 provides:

"The Administrator shall not approve the enrollment of, or payment of an education and training allowance to, any eligible veteran in any course in an educational institution or training establishment while it is listed by the Attorney General under section 3 of part III of Executive Order 9835, as amended."

[4] Hearings, Communist Ownership of GI Schools, pt. 2, p. 109.

Public Law 16, 78th Congress, and Public Law 894, 81st Congress, which grant benefits for disabled veterans only, are to be distinguished from Public Laws 346 and 550. Under the provisions of Public Laws 16 and 894, the Administrator of Veterans' Affairs has the responsibility for determining what vocational rehabilitation may be needed by disabled veterans to overcome the handicap of their disabilities. He has full authority to discontinue enrolling Public Law 16 veterans in schools which he determines will not properly rehabilitate veterans. Thus, the power to approve or disapprove a school for the training of veterans under Public Laws 16 and 894 rests in the Federal rather than in the State government.

SCHOOLS INVOLVED

The subcommittee heard testimony concerning four profit schools in which veterans have been or are currently enrolled, under the aforementioned laws, and concerning which allegations of Communist ownership were received.

The Cartoonists and Illustrators School, Inc.

The Cartoonists and Illustrators School, Inc., presently located at 245 East 23d Street, New York City, was licensed by the University of the State of New York, State education department, on August 20, 1947, to give instruction in cartooning and illustrating (commercial art).[5]

At the present time Silas Rhodes is president and half owner of the corporation, while Burne Hogarth is vice president and half owner.[6] At the time the school was approved by the New York State Education Department it was a partnership owned by Rhodes and Hogarth. The school was incorporated in September of 1950.[7]

The New York State Education Department approved the Cartoonists and Illustrators School to train veterans under Public Law 346, 78th Congress, effective September 4, 1947.[8] Effective September 2, 1952, the Cartoonists and Illustrators School was approved to train veterans under Public Law 550, 82d Congress.[9] The school continues to be approved and is currently training veterans under these laws.

The Cartoonists and Illustrators School had contracts with the Veterans' Administration for the training of veterans under Public Laws 16 and 894 for the period beginning September 8, 1947, and ending February 29, 1956.[10]

During the summer of 1951, the Veterans' Administration received information indicating that "two persons connected with this school may possibly have communistic background or leanings." However, it was not until October 7, 1954, that the Veterans' Administration determined that no further Public Laws 16 and 894 veterans would be sent to the Cartoonists and Illustrators School.[11] This was shortly after the subcommittee commenced its inquiry as to GI schools.

It had been determined by the Veterans' Administration that "additional enrollments of disabled veterans would be contrary to good

[5] Ibid., pt. 1, exhibit 2, p. 26.
[6] Ibid., pt. 1, p. 34.
[7] Ibid., pt. 2, pp. 117-118.
[8] Ibid., pt. 2, p. 120.
[9] Ibid., pt. 2, p. 121.
[10] Ibid., pt. 2, pp. 126-129.
[11] Ibid., pt. 2, p. 127.

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public policy until all facts could be developed concerning the associations and activities of the two persons" allegedly having communistic sympathies.

Public Laws 16 and 894 students already enrolled at the school were permitted to complete their courses and, as of October 31, 1955, 13 such veterans were enrolled at the Cartoonists School.

For the period beginning September 1947 and ending December 31, 1955, a total of $956,627.76 was paid the school by the Veterans' Administration for the training of veterans under Public Law 346 and Public Law 16. From September 1952 through December 1955, the school received a total of $220,084.86 from veterans for training under Public Law 550. Thus, as of December 31, 1955, the school received a total of $1,176,712.62 for training of all veterans. A total of 2,121 veterans had attended the school up to December 31, 1955.[12] As of December 21, 1955, approximately 46 percent of the students attending were veterans.[13]

The subcommittee heard the testimony of John J. Huber, who was an undercover agent for the Federal Bureau of Investigation while a member of the Communist Party from 1939 until 1947.

Huber stated he first met Burne Hogarth, currently vice president of the Cartoonists and Illustrators School, in 1944 at a closed meeting of the James Connelly branch of the Communist Party in New York City, later known as the Unity Center.[14] According to Huber, Hogarth's name was on the membership rolls of that branch of the Communist Party from 1944 until at least October 1947 when Huber left the party.[15]

During his testimony, Huber read from summaries of reports he had submitted to the Federal Bureau of Investigation, which summaries he stated were prepared immediately after the occurrence of the events described therein. They reflect as follows:

> That on January 9, 1945, Burne Hogarth was nominated to the position of mass organization representative of the Unity Center of the Communist Party;[16]
>
> That Hogarth was nominated and elected to the position as member at large and delegate to the county council of the Unity Center of the Communist Party on January 30, 1945;[16]
>
> That as of March 1945, a new Communist controlled organization to be named the West Side Legislative Conference was to be formed with temporary headquarters at the Robert Louis Stevenson School, 246 West 80th Street, New York City. Burne Hogarth was designated executive secretary of this committee.[17]

During the hearings Huber identified Burne Hogarth, vice president of the Cartoonists and Illustrators School, as identical with the individual referred to in his testimony.

On February 2, 1956, Dr. Bella V. Dodd, 100 West 42d Street, New York City, appeared in executive session before this subcommittee. This testimony was made public by vote of the subcommittee on April 20, 1956. Dr. Dodd was active in the Communist Party from 1932 until 1948. She broke from the party on the latter date. Dr.

[12] Ibid., pt. 2, p. 129.
[13] Ibid., pt. 2, pp. 124–125.
[14] Ibid., pt. 1, p. 12.
[15] Ibid., pt. 1, pp. 12, 46.
[16] Ibid., pt. 1, p. 13.
[17] Ibid., pt. 1, p. 15.

Dodd achieved the position of member of the national committee of the Communist Party, its top policymaking group, in 1944, remaining on the committee until 1948. She was also a member of the New York State district committee of the party.[18]

Dr. Dodd testified that she had been acquainted with Burne Hogarth, part owner of the Cartoonists and Illustrators School. Although she had never seen his Communist Party card, she worked with him on organizing community welfare and discussed with him party structure and party decisions. She described Hogarth as a "militant fighter for the party position." [19]

Mr. Burne Hogarth, half owner of the Cartoonists and Illustrators School and a teacher of art at the school, appeared before the subcommittee with counsel on January 18, 1956. Mr. Hogarth contended that the subcommittee had no jurisdiction to inquire into areas not related to contractual relations between the school and the Government prior to August 20, 1947. He denied present membership in the Communist Party and past membership from August 20, 1947, to date. However, he invoked the fifth amendment to the Constitution when asked if he were a member of the Communist Party prior to that time.[20]

Hogarth refused to answer questions as to his education qualifications and where he went to school on the ground that it might tend to incriminate him.[21]

After it was established through Hogarth's testimony that he was 5 or 6 years of age when he first entered school, the following exchange occurred between Senator Ervin and the witness:

> Senator ERVIN. And you state on the solemnity of an oath that if you were to disclose the location of the school building in which you entered school at the age of 5 or 6 years that it would tend to incriminate you?
>
> Mr. HOGARTH. Yes, sir.
>
> Senator ERVIN. And you swear that notwithstanding the fact that anybody 5 or 6 years of age, under any system of law that prevails anywhere in America, could not possibly be guilty of any criminal offense at that age regardless of what he did?
>
> Mr. HOGARTH. Yes, sir.[22]

Hogarth also invoked the privilege of not testifying against himself afforded by the fifth amendment in response to the following questions:

> Whether he taught at the Robert Louis Stevenson School.[23]
>
> Whether he knew Annette T. Rubinstein, either before or after the Cartoonists and Illustrators School was established.[23]
>
> Whether he ever discussed Communist Party matters with Annette T. Rubinstein, either prior or subsequent to the establishment of the school.[23]
>
> Whether he had ever engaged in any illegal or criminal activity with Annette T. Rubinstein.[24]

[18] Ibid., pt. 2, p. 80.
[19] Ibid., pt. 2, p. 90.
[20] Ibid., pt. 1, pp. 43, 46.
[21] Ibid., pt. 1, pp. 34-35
[22] Ibid., pt. 1, pp. 48-49
[23] Ibid., pt. 1, p. 38.
[24] Ibid., pt. 1, p. 40.

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Whether he was a member of the Unity Center of the Communist Party in New York City during November of 1944.[25]

Whether he was nominated for the executive committee of the Unity Center of the Communist Party on January 9, 1945.[26]

Whether he was executive secretary of the Citizens Committee, Upper West Side.[27]

Whether he was a member of the Communist Party on August 19, 1947.[27]

Lt. Thomas McGuire of the New York Police Department was a member of the Communist Party from 1940 until 1942 as an undercover agent for the New York Police Department. During this period he reported regularly to his superiors concerning Communist Party activities in New York City.

While testifying before the subcommittee on January 18, 1956, Lieutenant McGuire had before him copies of reports prepared by him for the New York City Police Department which reflected the following concerning Silas H. Rhodes, president of the Cartoonists and Illustrators School.

On Tuesday, December 9, 1941, during a Communist Party branch meeting at 117 West 81st Street, New York City, it was announced that "Si Rhodes, a Communist" was to enlist in the Navy and a party was to be held in his honor.[28]

A report dated June 5, 1942, prepared by Lieutenant McGuire, read:

> I did meet Silas Rhodes who informed me he had enlisted in the United States Marines and that he was scheduled to leave for induction on January 23. He told me he was seeking to change his status to secure a position as ensign in the United States Navy where he could have some influence over a greater number of men. The Communist Party was to hold a farewell party for him.[28]

It was Lieutenant McGuire's testimony that he met Silas Rhodes on a number of occasions, principally in connection with the American Peace Mobilization, an organization declared subversive by the Attorney General.[29]

During the hearing and in the presence of the subcommittee, Lieutenant McGuire identified Silas H. Rhodes, president of the Cartoonists and Illustrators School, as identical with the Silas Rhodes mentioned in his reports.[30]

Mr. Silas H. Rhodes appeared with counsel before the subcommittee on January 18, 1956. Mr. Rhodes denied membership in the Communist Party since August 20, 1947. He took the position that the subcommittee had no jurisdiction to inquire into any of his actions prior to August 20, 1947, on which date the school was originally licensed by the New York State Board of Education. However, in response to a question as to membership in the Communist Party prior to that date, he invoked the fifth amendment to the Constitution. He similarly invoked the fifth amendment when asked whether it was necessary for him to terminate his membership in the party prior to establishing the school.[31]

[25] Ibid., pt. 1, p. 42.
[26] Ibid., pt. 1, p. 43.
[27] Ibid., pt. 1, p. 44.
[28] Ibid., pt. 1, p. 19.
[29] Ibid., pt. 1, p. 20.
[30] Ibid., pt. 1, p. 21.
[31] Ibid., pt. 1, p. 27.

In an effort to determine Rhode's competence as an educator and director of a school training veterans, he was asked certain questions relating to his educational background. In this connection, he refused to answer the following questions invoking the constitutional privilege not to be a witness against himself.

Whether he went to high school.[32]

Where he went to high school.[33]

Where he went to college.[32]

Whether prior to August 20, 1947, he had any experience in teaching.[34]

Rhodes also pleaded the fifth amendment when asked whether, prior to August 20, 1947, he taught at the Robert Louis Stevenson School and whether he taught veterans at the Robert Louis Stevenson School.[35]

The Radio Television Technical School

The Radio Television Technical School, 29–31 North Seventh Street, Allentown, Pa., is owned by a partnership consisting of M. Michael Freedland, Raymond L. Freudberg, Albert B. Gerber, and S. Harry Galfand. Freedland owns 50 percent, while the remaining 50 percent interest is shared by the other 3 partners. Freedland is also administrator of the school.[36]

The Radio Television Technical School was approved by the department of public instruction, Harrisburg, Pa., to offer courses in radio and television maintenance and repair to veterans under Public Law 346, 78th Congress, effective July 1, 1949.[37]

Contracts between the Veterans' Administration and the school for the training of veterans under Public Law 16, 78th Congress, were in existence during the period beginning November 23, 1953, and ending November 22, 1955.[38] The Veterans' Administration was first aware of the possibilities that an owner of the Radio Television Technical School had a communistic background on October 14, 1954, when an article appeared in the Philadelphia Inquirer relating to testimony given by Herman Thomas before the Senate Internal Security Subcommittee. Mr. Thomas was reported as naming Michael Freedland, an operator of the Radio Television Technical School, as a member of the Communist Party.[39] However, it was not until September 14, 1955, that the Philadelphia regional office of the Veterans' Administration had determined that no further Public Law 16 veterans would be sent to the school. It was considered—

> contrary to the public interest to induct further disabled veterans into the school until the facts could be developed concerning past or present activities or associates of a person or persons having ownership of the school.[38]

One veteran already enrolled was permitted to complete his training.[38]

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[32] Ibid., pt. 1, p. 24.
[33] Ibid., pt. 1, p. 25.
[34] Ibid., pt. 1, p. 26.
[35] Ibid., pt. 1, pp. 26, 28.
[36] Ibid., pt. 1, p. 56.
[37] Ibid., pt. 2, p. 122.
[38] Ibid., pt. 2, p. 127.
[39] Ibid., pt. 2, pp. 122, 128.

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Effective September 8, 1952, the Department of Public Instruction, Harrisburg, Pa., approved the Radio Television Technical School to train veterans under Public Law 550.[37] The school continues to be approved and is currently training veterans under Public Laws 346 and 550.

As of January 6, 1956, the Radio Television Technical School had received a total of $215,523.26 in Federal funds for the training of veterans under all laws involved: $101,706.13 was paid the school by the Veterans' Administration for training veterans under Public Law 346; $4,052.31 for training veterans under Public Law 16; while $109,764.82 was received from veterans for training under Public Law 550.[40]

As of October 31, 1955, 1 Public Law 16 student and 114 Public Law 550 students, or a total of 115 veterans, were enrolled at the school. As of August 2, 1955, approximately 83 percent of the students attending the school were veterans.[41]

Mr. Herman E. Thomas, Allentown, Pa., a former member of the Lehigh Valley section of the Communist Party and an undercover agent for the Federal Bureau of Investigation from 1944 to 1954, testified before the subcommittee on January 18, 1956.

In May of 1954, Mr. Thomas was a witness for the United States Government during the course of the Smith Act trial of nine Communist leaders held in Philadelphia. In addition, he has testified before the Senate Internal Security Subcommittee and the House Committee on Un-American Activities, as well as before this subcommittee, on matters relating to the Lehigh Valley, Pa., section of the Communist Party.

Mr. Thomas first met M. Michael Freedland, Administrator and half-owner of the Radio Television Technical School, in 1951, in Allentown, having been introduced to Freedland by one Irving Riskin, a member of the Communist Party. Thereafter, he saw Freedland frequently.[42]

It was Thomas' testimony that his association with Freedland was subsequent to the time the Communist Party went underground.[43] Although he had never seen Freedland's card (the Communist Party having discontinued issuing cards after 1948), he had always considered Freedland as a Communist for the following reasons:

Communist Party leaders in the area had met and stayed overnight at Freedland's home in Allentown. Freedland was introduced to Communist Party leaders during a period when it was the policy not to expose party leaders to anyone except Communists.[43]

Freedland admitted to Thomas that he had belonged to the Communist Party while residing in Philadelphia.[43]

Thomas had informed Freedland that he (Thomas) was a member of the Communist Party. They discussed Communist Party activities and Freedland exhibited a knowledge of Communist Party matters.[43]

It was Thomas' further testimony that after the party went underground the Lehigh Valley section experienced difficulty in getting Communist Party literature to the membership. As a result, Freedland was designated to pick up literature in Philadelphia and return it to his home in Allentown where Thomas obtained it for distribution

[37] Ibid., pt. 2, p. 122.
[40] Ibid., pt. 2, p. 129.
[41] Ibid., pt. 2, p. 126.
[42] Ibid., pt. 1, p. 51.
[43] Ibid., pt. 1, p. 53.

to the local party clubs.[43] According to Thomas, Freedland kept this literature in a closet in his home which he, Freedland, referred to as his "subversive closet."[43]

With respect to specific meetings held in Freedland's home, Thomas testified that in early 1952 one Charles Chaka, steel organizer for the National Committee of the Communist Party, spent the night at Freedland's home. On the following evening, Chaka, along with one William Hood, the organizer of the Lehigh Valley section of the Communist Party, and Thomas, met in Freedland's home. Freedland was not present at the meeting.[44]

In August 1952 a meeting arranged by William Hood was held in Freedland's home and attended by Hood, Joseph Kuzma, Joseph Roberts, William Power, and Thomas. Kuzma and Roberts were 2 of the 9 Communist Party leaders who were defendants in Smith Act trials held in Philadelphia during May of 1954, while Power, according to Thomas, replaced William Hood as section organizer of the Lehigh Valley section of the Communist Party. Following the meeting, Roberts and Kuzma were overnight guests in Freedland's home.[45]

Thomas testified that Kuzma was introduced to Freedland as "Sam," Power as "Jack," and Roberts as "Vick." However, because of the wide publicity given the Smith Act trials in Philadelphia in which Kuzma and Roberts were defendants, and the fact that their photographs appeared in the newspapers, Freedland had ample opportunity to know the real identity of "Sam" and "Jack." He added that Freedland also actually attended the trial on one occasion when Kuzma and Roberts were in the court room.[46]

Thomas testified that in early 1952 Freedland had requested him to drive to Philadelphia to pick up Howard Fast who was going to speak at the Lehigh Valley Progressive Forum in Allentown. Although Fast ultimately made other arrangements for transportation, he actually addressed the meeting in Allentown. Freedland was in attendance at this meeting.[47]

Thomas also testified that a meeting was held in Michael Freedland's home on the Julius and Ethel Rosenberg case (both of whom were convicted and executed for espionage). At this meeting arrangements were made to establish a committee for the defense of the Rosenbergs, and approximately $100 was raised at this meeting.[44]

Mr. M. Michael Freedland, Administrator and 50 percent owner of the Radio Television and Technical School, appeared with counsel before the subcommittee on January 18, 1956.

Freedland contended that any question asked of him relating to matters prior to the establishment of the school was irrelevant to the committee's inquiry. He denied membership in the Communist Party since January 1949 (several months prior to the school's establishment), but as to whether or not he had been a member of the Communist Party before that time, he invoked the fifth amendment.[48]

[43] Ibid., pt. 1, p. 51.
[44] Ibid., pt. 1, pp. 51–52.
[45] Ibid., pt. 1, p. 52.
[46] Ibid., pt. 1, p. 54.
[47] Ibid., pt. 1, p. 50.
[48] Ibid., pt. 1, pp. 57, 61.

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Freedland admitted being acquainted with Herman Thomas. He could not "recall" whether Thomas told him he was a member of the Communist Party but would not state "for certainty" that Thomas did not so inform him.[49] It was Freedland's testimony that Thomas had free access to his home, that on occasions individuals unknown to Freedland were brought to Freedland's home by Thomas, and that on occasion they were put up at Freedland's home at Thomas' request.[50] He denied knowing these individuals were Communist Party leaders and said he was ignorant of the nature of any meetings in which they might have participated at his home. He recalled hearing of the names "Vic" and "Sam" and assumed they were persons Thomas had brought to his home.[51]

Freedland admitted meeting William Hood, Hood having visited his home on several occasions.[52] Thomas testified that Hood was the organizer of the Lehigh Valley Section of the Communist Party.[45]

He also admitted attending the Smith Act trial of nine Communist leaders in Philadelphia, that Joe Kuzma and Joe Roberts were defendants in this trial, but could not recall ever realizing that Vic and Sam were identical with Roberts and Kuzma.[53] He had no recollection of seeing their photographs in the papers during the time of the trial, although he was interested in the trial and read the news stories on it.[52]

Freedland could not "recall" picking up Communist Party literature in Philadelphia and returning it to his home in Allentown for subsequent distribution by Herman Thomas.[54]

Freedland denied ever meeting Howard Fast. He could not "recall' making arrangements for Fast to speak in Allentown. He admitted attending a meeting in Allentown at which Fast was the speaker.[55]

Freedland could not "recall" any meeting at his home for the defense of the Rosenbergs, but stated there was a "little party for raising funds for clemency." He testified that the affair was held in their home after his wife had received a request from Yuri Suhl, an author, to come to Allentown and explain the "issues of clemency." [56]

The Robert Louis Stevenson School

The Robert Louis Stevenson School, 246 West 80th Street, New York City, is a private high school. From 1934 until June of 1952 it was owned solely by Dr. Annette T. Rubinstein, 59 West 71st Street, New York City.[57] In June 1952, Miss Rubinstein sold the school to a partnership consisting of her brother, Leo D. Rhodes, and two New York attorneys, Robert A. Carroll and Irving Payson Zinbarg.[58] These individuals are currently the owners of the institution.

Mr. Leo D. Rhodes, in a statement under oath before the subcommittee on January 18, 1956, declared that when the present ownership took possession of the Robert Louis Stevenson School, they terminated the employment of 23 teachers whom they had reason to believe were sympathetic to the Communist cause. He stated that neither he nor, to the best of his knowledge, his partners is now or ever have been

[49] Ibid., pt. 1, p. 52.
[50] Ibid., pt. 1, p. 58.
[51] Ibid., pt. 1, p. 62.
[52] Ibid., pt. 1, pp. 59, 68, 70.
[53] Ibid., pt. 1, p. 59.
[54] Ibid., pt. 1, p. 68.
[55] Ibid., pt. 1, p. 72.
[56] Ibid., pt. 1, p. 65.
[57] Ibid., pt. 1, p. 66.
[58] Ibid., pt. 2, p. 95.
[59] Ibid., pt. 2, p. 115.

a member of the Communist Party.[59] Mr. Rhodes testified that he had been associated with the Robert Louis Stevenson School for approximately 6 years under Annette Rubinstein's proprietorship; that during this period he had an opportunity to observe and associate with the dismissed teachers and thus had personal knowledge that some of them were undesirable from the standpoint of pro-Communist sympathies.[60]

Mr. Rhodes testified that he and his partners purchased the Robert Louis Stevenson School outright from his sister, Annette T. Rubinstein, and that she has had no connection directly or indirectly, financially or otherwise, with the school since the sale.[61]

The subcommittee's investigation of the Robert Louis Stevenson School was primarily concerned with that period during which veterans were enrolled at the school under Rubinstein's ownership. As of the time of hearings the subcommittee received no information indicating Communist Party membership or sympathies on the part of any of the current owners.

As will subsequently be seen, the school, under the ownership of Annette Rubinstein, affords a concrete illustration of a school, although reliably reported to the Veterans' Administration as Communist-owned, continuing to receive Federal funds because of the provisions of Public Law 346.

By letter dated November 27, 1946, the Veterans' Administration was advised by the New York State Education Department that the Robert Louis Stevenson School was a registered secondary school and thus eligible for the education of veterans under Public Law 346.[62] The State's approval continued until May of 1952, when it was withdrawn because of the failure of the institution to file an application as required by the provisions of section 5, Public Law 610, 81st Congress.[63]

A contract between the school and the Veterans' Administration existed for the training of disabled veterans under Public Law 16, 78th Congress from September 23, 1946, until June 30, 1947. However, on April 2, 1947, a determination was made by the Veterans' Administration that no further Public Law 16 students would be sent to the school because of reported Communist ownership.[64]

During the period of Annette Rubinstein's proprietorship, that is, from 1946 until 1952, approximately 4,000 veterans attended the institution.[65] A total of $2,081,397.96 was paid to the school by the Veterans' Administration for the training of veterans under Public Law 16 and Public Law 346.[66]

John G. Huber, in the course of his testimony before the subcommittee on January 18, 1956, stated that he was introduced to Dr. Annette T. Rubinstein, former owner of the Robert Louis Stevenson School, in 1939 by one Charlotte Honig. Miss Honig, according to Huber, was a Communist who recruited him into the party. At that time Miss Honig informed Huber that Rubinstein was a member of the Communist Party.[66]

[59] Ibid., pt. 1, p. 75.
[60] Ibid., pt. 1, p. 76.
[61] Ibid., pt. 1, p. 77.
[62] Ibid., pt. 2, pp. 114-116.
[63] Ibid., pt. 2, p. 111.
[64] Ibid., pt. 2, p. 126.
[65] Ibid., pt. 2, p. 125.
[66] Ibid., pt. 1, p. 10.

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Huber further testified that while he was a member of the James Connelly branch of the Communist Party in New York City he had occasion to see the branch membership list frequently. The name of Dr. Annette Rubinstein appeared thereon.[65]

Huber described Rubinstein as former chairman of the American Peace Mobilization.[66] Furthermore, he observed her at the Jefferson School of Social Science, where she was an instructor.[67] He also met Rubinstein at functions of the Joint Anti-Fascist Refugee Committee, the National Council of American-Soviet Friendship, and the Council on African Affairs.[67] (All of these organizations have been designated by the Attorney General under Executive Order No. 10450.)

Dr. Bella Dodd advised that while she was a member of the Communist Party she knew Annette Rubinstein, the proprietor of the Robert Louis Stevenson School. She testified that although she had never seen Rubinstein's Communist Party card, she dealt with her as a party member. She described Rubinstein as loyal to the party, its objectives and philosophy.[68]

With respect to Rubinstein teaching at the Jefferson School of Social Science, Dr. Dodd stated that it was party policy not to permit anyone except party members to teach politics or literature. She explained that the party refused to take a chance on having a teacher present an un-Marxist approach to literature.[68]

On February 6, 1956, Dr. Annette T. Rubinstein appeared before the subcommittee with counsel. Miss Rubinstein, according to her testimony, was sole owner of the Robert Louis Stevenson School of New York City from 1934 until 1952, when she sold the school to her brother, Leo D. Rhodes, and attorneys Carroll and Zinbarg. She denied having any connection whatsoever with the school after the sale thereof.[69]

Miss Rubinstein invoked the fifth amendment to the Constitution in response to the following questions:

(1) Was she ever a member of the Communist Party.[70]

(2) Was she ever a member of the James Connelly branch of the Communist Party, New York City.[70]

(3) Is she presently a member of the Communist Party.[70]

(4) Did she teach at the Jefferson School of Social Science in New York City from 1946 until 1952.[70]

(5) Did she serve as chairman of the Women's Division, American Peace Mobilization.[70]

(6) Was she a member, sponsor, or active in the function of—

Joint Anti-Fascist Refugee Committee.[70]

National Council of American-Soviet Friendship.[71]

Council on African Affairs.[72]

Committee for a Democratic Far Eastern Policy.[72]

(All of the organizations mentioned above have been designated by the Attorney General under Executive Order No. 10450.)

(7) Whether she was acquainted with Earl Browder.[72]

(8) Whether she was acquainted with Bella Dodd.[72]

[65] Ibid., pt. 2, p. 10.
[66] Ibid., pt. 1, p. 11.
[67] Ibid., pt. 2, p. 89.
[68] Ibid., pt. 2, pp. 95, 101.
[69] Ibid., pt. 2, p. 98.
[70] Ibid., pt. 2, pp. 98-99.
[71] Ibid., pt. 2, p. 99.

Miss Rubinstein testified that she was acquainted with Burne Hogarth and Silas H. Rhodes, having employed them as teachers at the Robert Louis Stevenson Shcool in 1946 or 1947. She invoked the fifth amendment to the Constitution when asked if Hogarth and Rhodes were members of the Communist Party.[73]

The California Labor School

The California Labor School, San Francisco, Calif., was approved by the California State Department of Education to train veterans under Public Law 346 on October 8, 1945. This approval was canceled by that agency on July 27, 1947.[74]

The Veterans' Administration contracted with the California Labor School to train veterans under Public Law 16, 78th Congress, for a period beginning May 6, 1946, and ending July 12, 1947. In October 1946 a determination was made by the Veterans' Administration that no further Public Law 16 veterans would be enrolled in the California Labor School because of allegations of Communist control.[64] As of November 1946, two Public Law 16 veterans were attending the school and were permitted to continue, inasmuch as it had been determined that completion of their training was imminent.[64]

The California Labor School was designated by the United States Attorney General in 1948 as a subversive and Communist organization pursuant to Executive Order 9835.[75]

On March 31, 1955, Attorney General Herbert Brownell asked the Subversive Activities Control Board to order the California Labor School, Inc. of San Francisco to register as a Communist-front organization. Mr. Brownell stated that the school was formed by the American Communist Party 13 years before as the Tom Mooney Labor School. The party subsequently changed the name when the school was incorporated "by party representatives" in 1944. The Attorney General stated that the school had never deviated from the Communist Party line.

Dr. Bella Dodd, previously described, testified that the California Labor School of San Francisco, Calif., was one of a group of Marxist schools organized by the Communist Party following a policy established in 1943. At this time, Earl Browder, then head of the party in the United States, suggested the organization of such schools because of the necessity for training adults in Marxism and Leninism. According to Dr. Dodd, the first such school established was the Jefferson School of Social Science in New York City. The California Labor School, among others, followed.[76]

The total of $196,947.55 was expended by the Veterans' Administration for tuition and subsistence of veterans attending the California Labor School, a Marxist school organized by the Communist Party.[64]

AMENDATORY LEGISLATION

The need for legislation appropriately amending Public Laws 346, 78th Congress, and 550, 82d Congress, is demonstrated by the documented record.

[64] Ibid., pt. 2, p. 126.
[73] Ibid., pt. 2, pp. 99-100.
[74] Ibid., pt. 2, p. 124.
[75] The school was redesignated by the Attorney General pursuant to Executive Order No. 10450.
[76] Hearings, Communist Ownership of GI Schools, pt. 2, p. 91.

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(1) Mr. Edward E. Odom, General Counsel of the Veterans' Administration, testified that in the summer of 1946 the Veterans' Administration received information that the owners, directors, and many of the faculty of the California Labor School were members of or closely associated with members of the Communist Party. On October 1, 1946, payments to the school were suspended by the Administrator. Subsequently, however, and after consultation with the Attorney General, these payments were resumed. It had been determined that the Administrator had no legal basis for refusing to make such payments under the provisions of Public Law 346, since the approval of the school by the California State approving agency was still in effect.[77] Thus, because of the provisions of the applicable law (which even to this time continues unchanged), the Administrator of Veterans' Affairs was required to pay Federal moneys to a school formed by the American Communist Party and subsequently declared subversive by the Attorney General.

The Administrator's only recourse was to furnish the unfavorable information he had received to the California Board of Education. This was done in the spring of 1947.[77] Approval of the school was withdrawn by the State approving agency on July 27, 1947, which was subsequent to the school's voluntary proposal to discontinue training veterans.[78]

(2) The record relating to the Robert Louis Stevenson School of New York City is equally persuasive. Beginning in the latter part of 1946 the Veterans' Administration received reliable reports that the owner and operator of the Robert Louis Stevenson School was a member of the Communist Party. From time to time thereafter additional information of a similar nature was received.[79] Beginning in the spring of 1947 and continuing until 1952 the general character of the information received by the Veterans' Administration was made known to the New York State approving agency, with a request that appropriate action be taken thereon as to the suitability of the school to train veterans.[80] As long as the school maintained its approved status, the Veterans' Administration, under the provisions of Public Law 346, felt that it was required to continue payments.

The State approving agency took no action to withdraw approval until May 1952. Even then the disapproval of the school was not on the basis of Communist domination, but rather for a technical failure to file an application in accordance with provisions of section 5, Public Law 610, 81st Congress.[79] Evidently, Communist ownership was not a sufficient basis for the State agency to cancel approval of the school.

It is of interest that between 1946 and 1952 some 4,000 veterans were enrolled at the Robert Louis Stevenson School. Over $2,081,000 in Federal funds were expended for their tuition. The bulk of these veterans were trained at the school after the Veterans' Administration was aware that it was Communist dominated.

(3) The Cartoonists and Illustrators School and the Radio Television Technical School are still approved to train veterans under Public Laws 346 and 550. Despite the testimony before the subcommittee the Veterans' Administration feels that under existing provi-

[77] Ibid., pt. 2, p. 103.
[78] Ibid., pt. 2, p. 108.
[79] Ibid., pt. 2, pp. 111, 114.
[80] Ibid., pt. 2, p. 114.

sions of law, they are required to continue expending Federal moneys for the tuition of veterans attending these schools until such time as these schools are declared subversive by the Attorney General, or approval is canceled by the appropriate State agency.[81] Neither of these actions can be reasonably expected.

(4) It was the testimony of Dr. Bella Dodd that in September of 1944 the national committee of the Communist Party, of which she was a member at the time, held a meeting on veterans' matters during which it was agreed that the party would get into all legitimate veterans' organizations and affairs. Thereafter, Robert Thompson, head of the New York district of the Communist Party, organized a New York district veterans committee, the purpose of which was to concentrate on all veterans' activities including veterans schools. It was agreed that the Communist Party, through its officials or its members interested in making money, would assist in organizing private trade schools to train veterans.[82]

Thus, there is a distinct possibility that Communist schools, other than those which were the subject of this subcommittee's investigation, are presently in existence.

The Veterans' Administration was put on notice as early as 1946 that, although it might be in possession of reliable information that schools approved to train veterans were owned by the Communists, tuition payments to such schools could not legally be discontinued. Mr. Odom testified that the Veterans' Administration made no specific recommendations to Congress for amendatory legislation, but rather attempted to administer the laws as written. It was felt by the officials that it was the business of the Veterans' Administration to administer the laws and not govern the schools.[83]

Moreover, the Veterans' Administration did not apprise appropriate congressional committees of the situation.[78]

CONCLUSIONS

These hearings have served to reemphasize to this subcommittee the important contributions that may be made by confidential informants to the exposure of the Communist conspiracy before the courts and congressional committees. To this end they have made extreme sacrifices of which the American public generally is unaware.

It is to be expected that Communists and Communist sympathizers will launch smear campaigns against these former party members who have a unique knowledge of the real purposes of the Communist Party, U. S. A. However, the subcommittee is particularly disturbed by a recent increase in similar unjustified attacks from misguided quarters avowedly anti-Communist. By such activities they are either unwittingly or deliberately promoting Communist causes.

The result of such attacks has been an increasing reluctance on the part of former members of the Communist Party or undercover agents to testify in courts or before congressional committees. This Government is thus being deprived of its best source of facts concerning an organization dedicated to its overthrow by unconstitutional means.

[81] Ibid., pt. 2, p. 108.
[82] Ibid., pt. 2, p. 110.
[83] Ibid., pt. 2, pp. 90-91.
[78] Ibid., pt 2, pp. 105-106.

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It is of interest that those groups attacking informants are not heard from when informants on non-Communist matters are involved.

The very nature of the Communist conspiracy has always rendered its exposure exceedingly difficult. Now that the party has gone underground, that difficulty has greatly increased, necessitating an even greater dependence on confidential informants within the party in order to keep abreast of its activities and at appropriate times to publicly expose its real objectives.

Reckless and unjustified attacks against all confidential informants and their use by our Government are strongly condemned by this subcommittee. They accomplish nothing except the rendering of assistance to the Communist Party.

This subcommittee is firmly opposed to the expenditure of Federal funds for institutions owned or controlled by Communists.

It is recognized that under existing provisions of Public Law 346, 78th Congress, and Public Law 550, 82d Congress, the Veterans' Administration did not have and does not have legal authority to discontinue payment of Federal funds to schools reliably reported as Communist owned. However, the Veterans' Administration was on notice as early as 1946 of the deficiencies in this area of Public Law 346, 78th Congress. Furthermore, Public Law 550, 82d Congress, which was enacted 6 years later, contains similar provisions which also require the Veterans' Administration to pay the tuition of veterans, as well as other charges, to Communist-owned schools.

For a period of over 9 years, the Veterans' Administration failed to recommend corrective legislation or at least apprise Congress of the deficiencies of these laws. Such inaction is strongly condemned by this subcommittee. It resulted in an inexcusable expenditure of Federal funds in support of Communist-owned schools.

RECOMMENDATION

The subcommittee recommends that Congress consider favorably the enactment of appropriate legislation amending Public Law 346, 78th Congress, and Public Law 550, 82d Congress, which would preclude insofar as practicable the expenditure of Federal funds for Communist-owned schools training veterans.

To that end, a bill, sponsored by the full membership of the subcommittee, has been introduced in the Senate by the chairman.

The members of the Committee on Government Operations, except those who are members of the Senate Permanent Subcommittee on Investigations, did not sit in on the hearings and executive sessions on which the above report was prepared. Under these circumstances, they have taken no part in the preparation and submission of the report, except to authorize its filing as a report made by the subcommittee.

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Calendar No. 2399

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2378

AMENDING THE RECLAMATION LAWS TO PROVIDE THAT EXCESS LANDS ACQUIRED BY FORECLOSURE OR INHERITANCE MAY RECEIVE WATER TEMPORARILY FOR 5 YEARS

JUNE 28, 1956.—Ordered to be printed

Mr. ANDERSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 6643]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 6643) to amend the reclamation laws to provide that excess lands acquired by foreclosure or inheritance may receive water temporarily for 5 years, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

While maintaining the principle of the acreage limitation provisions of the reclamation law, the bill would strengthen the lending value of lands in reclamation projects. Existing law would be amended by the bill to permit land acquired by foreclosure or inheritance to receive irrigation water temporarily for a period of 5 years. Existing law has been subject to varying interpretations on this point. The bill would clarify the statute and avoid conflicting interpretations that have concerned Federal land banks and similar institutions in making loans with reclamation project lands as security. Similarly, the bill will afford protection to estates and heirs concerned with project lands.

NEED FOR LEGISLATION

Reclamation law provides that lands in excess of 160 acres held in single ownership shall not receive irrigation water from reclamation projects unless such owner executes a contract agreeing to dispose of the excess lands. The status of credit agencies under this provision in reclamation law and the question of availability of water to lands which become excess upon acquisition by the credit agencies has been a matter of major concern to banks and other lending institutions.

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Under the law, if a landowner who is within the 160-acre limitation defaults and the bank forecloses on his property, the bank, assuming it holds other property, would then be in violation of the excess-lands provision and it is questionable whether water could be delivered to these lands, even on a temporary basis. This has resulted in discouraging lending agencies from making loans covering lands that are subject to this provision in reclamation law. Many banks and other lending agencies have refused to consider long-term mortgage loans which might have the security jeopardized through limitation of the water supply should the property be acquired by the lender.

This same situation is true in the case of inheritance. If a landowner who already has 160 acres and is within the excess-lands limitation acquires additional lands through inheritance, he is immediately in violation of existing law and it is questionable whether water for these additional lands can be furnished even on a temporary basis to give him an opportunity to either comply with the law or dispose of the lands.

As stated, no change is made in the basic law with respect to excess lands but permits compliance with such law without impairing the lending value of such lands. It provides for temporarily supplying water to such lands for a period up to 5 years, thereby giving the banks and other lending institutions or, in the case of inheritance, the new owner ample time to either dispose of the lands or to execute contracts pursuant to the existing law, agreeing to later dispose of the lands.

EXPLANATION OF THE BILL

The legislation would achieve two results: First, by section 1, it would amend section 46 of the act of May 25, 1926 (44 Stat. 636, 649; 43 U. S. C., sec. 423e), by adding to it language specifically authorizing the delivery of water to excess lands acquired by foreclosure, inheritance, and other processes for not more than 5 years; second, by section 2 it would amend section 3 of the act of August 9, 1912 (37 Stat. 265, 266; 43 U. S. C., sec. 544), by deleting language authorizing delivery of water to excess lands acquired by foreclosure or inheritance for a 2-year period, and substituting language similar to and consistent with the above. The legislation, by section 3, also authorizes the Secretary of the Interior to amend any existing contract, upon request of the holder thereof, to make it conform to the provisions of this act.

REPORT OF THE DEPARTMENT

The report of the Department of the Interior recommending enactment of the legislation is included hereinafter. The Department recommends certain amendments which have been adopted by the committee.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., August 31, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: A report has been requested from this Department on H. R. 6643, a bill to amend the reclamation laws to

provide that excess lands acquired by foreclosure or inheritance may receive water temporarily for 5 years.

If enacted, H. R. 6643 would do two things: (1) It would amend section 46 of the act of May 25, 1926 (44 Stat. 636, 649, 43 U. S. C., sec. 423e), by adding to it language specifically authorizing the delivery of water to excess lands acquired by foreclosure, inheritance, and other similar processes for not more than 5 years. (2) It would amend section 3 of the act of August 9, 1912 (37 Stat. 265, 266, 43 U. S. C., sec. 544), which now contains such a provision, by extending its 2-year period to 5 years. Section 46 of the 1926 act deals with contracts with irrigation organizations, section 3 of the 1912 act with contracts with individual water users.

The language employed in the bill to accomplish the first of these objectives is identical with that used in section 2 (b) (iv) of the Columbia Basin Project Act (57 Stat. 14, 16). Its enactment would clarify the law and fill a gap that we understand has been troublesome to the Federal lands banks and similar lending institutions. We recommend its enactment.

The second section of H. R. 6643 would bring the 2-year period of the 1912 act provision into line with the 5-year provision of the 1926 act as H. R. 6643 proposes it shall be amended. We suggest, however, that your committee consider the desirability of substituting for the present 1912 act language which is set out in section 2 of the bill language taken from section 1 of the bill in order that the two acts may be on as complete a par with each other as possible.

We also suggest that your committee consider the desirability of adding to the bill a new section 3 reading along the following lines:

"The Secretary of the Interior is authorized, upon request of any holder of an existing contract under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to amend the contract to conform to the provisions of sections 1 and 2 of this Act."

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H. R. 6643, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman.)

SECTION 46 OF THE OMNIBUS ADJUSTMENT ACT OF MAY 25, 1926 (44 STAT. 649; 43 U. S. C. 423 (e))

No water shall be delivered upon the completion of any new project or new division of a project initiated after May 25, 1926, until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United

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States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts with irrigation districts hereinbefore referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sale is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided, however, That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor:* Provided further, That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment.

SECTION 3 OF THE ACT OF AUGUST 9, 1912 (37 STAT. 266; 43 U. S. C. 544)

No person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water-right application shall have been made under the said reclamation law, before final payment in full of all installments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single

ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said law nor a water right sold or recognized for such excess; [but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition;] *but any such excess land acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, may be held for five years and no longer after its acquisition, and water may be temporarily furnished during that time;* and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction. The above provision shall be recited in every patent and water-right certificate issued by the United States under the provisions of sections 541–543 of this title.

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Calendar No. 2400

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2379

PROVIDING FOR TRANSFER OF TITLE TO IRRIGATION DISTRIBUTION SYSTEMS CONSTRUCTED UNDER THE FEDERAL RECLAMATION LAWS UPON COMPLETION OF REPAYMENT OF THE COSTS THEREOF

JUNE 28, 1956.—Ordered to be printed

Mr. BIBLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 2217]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 2217) to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof, having considered the same, report favorably thereon with the following amendments and with the recommendation that the bill, as amended, do pass:

AMENDMENTS

Page 2, line 18, after the period insert the following:

> Unless the care, operation, and maintenance of the system to be transferred has already been turned over to the transferee, any such transfer shall also be accompanied by the transferee's acceptance of such care, operation, and maintenance.

The purpose of this amendment is to assure that title to distribution systems will not be transferred while the Government is still operating the works. In other words a water-user organization must assume operation and maintenance of a distribution system before title will be transferred.

Page 2, line 23, strike the period, insert semicolon and add the following:

> *Provided, however,* That, where the distribution system or a portion thereof is located upon lands within a national forest or other lands administered by the Secretary of Agriculture necessary rights-of-way only shall be granted therefor subject to such conditions as the Secretary of Agriculture

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finds necessary for the adequate protection and utilization of the national forest or other lands.

The purpose of this amendment is to prevent any interference with national-forest management or an increase in administrative costs to obtain rights-of-way.

The first amendment was recommended by the Department of the Interior and the second by the Department of Agriculture.

EXPLANATION OF THE BILL

S. 2217 proposes to authorize the Secretary of the Interior to transfer title to distribution systems of Federal reclamation projects under certain circumstances to local water users' organizations upon two conditions: (*a*) that an organization representing the water users concerned shall have requested the transfer; and (*b*) that the Secretary shall find that the water users or the organization have completed repayment of all construction and other charges, with the exception of operation and maintenance charges not yet due, which are obligations with respect to the distribution system concerned. Under existing Reclamation law, no provision is made for the transfer of title to distribution works upon completion of repayment from the United States to any organization.

Where two or more water-user organizations are concerned with a distribution system the transfer may be effected by the Secretary on the joint application of the organizations affected.

The bill avoids any reference to the transfer of dams or other supply works as distinguished from irrigation distribution systems. The reason for this omission is that the question of transfer of dams or headworks involves considerations of national policy, as well as interstate considerations and should be taken up in connection with matters of broad national policy affecting water resources and their use.

Attention is called to the discretion left with the Secretary of the Interior as to determinations of whether all construction costs and other charges for which an organization is obligated shall be paid prior to transfer of title to the distribution systems. Before and since the enactment of the Reclamation Project Act of 1939, there has been no apportionment, by contract or otherwise, of water-user repayment obligations as between distribution and supply works, the latter of which generally includes dams and related headworks. Under the bill, the Department of the Interior would be required to make an apportionment of this character.

The committee concurs with the view of the Department of the Interior that in making the apportionment the water-users' return should be applied ratably or proportionately to the supply of distribution works unless impelling reasons for the adoption of some other course should appear.

EXECUTIVE COMMUNICATIONS

The amendments to the bill recommended by the committee are those suggested by executive agencies and, as amended, the Bureau of the Budget has advised it would have no objection to its enactment. The recommendations from the executive agencies are as follows:

LETTER FROM THE BUREAU OF THE BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., January 16, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge receipt of your letter of June 27, 1955, requesting the views of the Bureau of the Budget on S. 2217, a bill to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof.

The purpose of the bill is clearly stated in its title. The Department of the Interior, in its report, recommends an amendment to make it clear that the bill is intended to be operative only in those cases in which the water users have already taken over, or in which they will take over at the time title is transferred, the care, operation, and maintenance of the works. The Department's report also indicates that, while the bill makes no such provision, water users' payments will be apportioned ratably between distribution and supply works in determining whether all construction and other charges required to be paid prior to transfer of title have been paid.

The Department of Agriculture is submitting a voluntary report to your committee regarding the protection and utilization of national forests and is recommending the addition of a proviso "* * * that, where the distribution system or a portion thereof is located upon lands within a national forest or other lands administered by the Secretary of Agriculture necessary rights-of-way only shall be granted therefor subject to such conditions as the Secretary of Agriculture finds necessary for the adequate protection and utilization of the national forest or other lands."

The Bureau of the Budget concurs in the views and recommendations of the Departments of the Interior and Agriculture in their proposed reports to your committee and, if the bill is amended accordingly, would have no objection to its enactment.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

LETTER FROM THE DEPARTMENT OF THE INTERIOR

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 26, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR SENATOR MURRAY: A report has been requested from this Department on S. 2217, a bill to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof.

We recommend that the bill be enacted.

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If S. 2217 becomes law, this Department will be authorized, in certain circumstances, to transfer title to distribution systems constructed under the Federal reclamation laws to local water-users' organizations. The principal conditions precedent to any such transfer would be that: (1) An oragnization representing the water users shall have requested it; and (2) the Secretary of the Interior shall have found that the water users or the organization have completed payment of all construction and other charges (except operation and maintenance charges not yet due) which they or it are obligated to repay with respect to the distribution system.

Existing general reclamation law makes no provision for the transfer of title to distribution works upon completion of repayment. Thus enactment of S. 2217 will fill an important gap in the law and will do so without necessitating discussion of the important policy questions which would be raised by a broader bill covering all project works. S. 2217 is primarily a long-range measure. It will become more and more useful as the years go by and as repayment of project costs is completed. Although we do not anticipate that all water-users' organizations will take advantage of its terms—there being, in some circumstances, perceptible advantages to leaving title in the United States—it is likely that many of them will do so in years to come.

It may reasonably be assumed that the bill is intended to be operative only in those cases in which the water users have already taken over, or in which they will take over at the time title is transferred, the care, operation, and maintenance of the works. What little doubt there may be on this score arises from the phrase "except future operation and maintenance charges" on page 1, lines 9–10, of the bill. This exception is, of course, a perfectly appropriate one in its context. To avoid any possibility of its being read, however, as permitting a transfer of title while the Government is still operating a distribution system, we suggest that the bill be amended by inserting a new sentence in line 18, page 2, reading along these lines:

"Unless the care, operation, and maintenance of the system to be transferred has already been turned over to the transferee, any such transfer shall also be accompanied by the transferee's acceptance of such care, operation, and maintenance."

The bill necessarily leaves it to the Secretary of the Interior to determine whether all construction and other charges required to be paid prior to a transfer of title have in fact been paid. On nearly all of our projects constructed prior to the Reclamation Project Act of 1939 and on many that have been constructed since then, there has been no apportionment, by contract or otherwise, of water-users' payments between distribution and supply works. The administration of the bill, if it becomes law, will require such an apportionment. Several courses of action will be open to this Department: (1) To apply water-users' returns ratably to the supply and distribution works; (2) to apply these revenues first to return of the cost of the distribution works and thereafter to the supply works; (3) to apply these revenues first to return of the cost of the supply works and thereafter to the distribution works. It is our belief that, unless the bill is amended to provide otherwise, the first of these courses of action is the one that should normally be pursued and it is our intention so to do.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Secretary of the Interior.

LETTER FROM DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE,
Washington, January 25, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

DEAR SENATOR MURRAY: We would like to have the privilege of presenting the following voluntary report on S. 2217, a bill to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof.

This Department recommends that S. 2217 not be enacted unless amended to provide that easements only will be granted where reclamation distribution system works are on or traverse national forest or other lands administered by this Department.

This bill would direct the Secretary of the Interior, upon request of an organization representing the water users of any project or division of a project constructed under the Federal reclamation laws, if he finds that these water users have completed payments of all construction and other charges which they are obligated to pay under the reclamation laws with respect to the distribution system, to transfer title to the distribution system or portions of it to the organization of water users, or to other entities designated by it and capable of receiving the same. The bill defines the term "distribution system" as inclusive not only of works and structures for delivery of water but also of drains, lands, interests in lands, equipment, supplies and records relating to the distribution system.

A substantial area of publicly owned lands within the national forests in the western portion of the United States is withdrawn for reclamation purposes under the act of June 17, 1902 and supplementary or amendatory acts. Such lands are not removed from the national forests, but thereupon have a qualified national-forest status and continue to be administered for national-forest purposes insofar as such purposes do not conflict with their use as parts of a reclamation project. Conveyance to local organizations of water users of title to lands involved in reclamation works distribution systems could result in removing substantial areas from the national forests. Parcels so conveyed from Federal ownership would be in the form of extremely long narrow strips along canals, or scattered tracts or irregular shaped areas around reservoirs. Such action could materially interfere with national-forest management and result in increased administrative costs to obtain rights-of-way, and to survey such lands in order to exclude them from national-forest activities. Grants of easements for facilities traversing national forests or other lands administered by this Department would adequately meet the needs of the grantee for security of tenure and avoid the undesirable consequences of fee conveyances.

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This recommended amendment can be accomplished as follows: strike the period at the end of line 23, page 2, of the bill and add thereafter ": *Provided, however,* That, where the distribution system or a portion thereof is located upon lands within a national forest or other lands administered by the Secretary of Agriculture necessary rights-of-way only shall be granted therefor subject to such conditions as the Secretary of Agriculture finds necessary for the adequate protection and utilization of the national forest or other lands."

We have no recommendations as to the other provisions of S. 2217.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

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Calendar No. 2401

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2380

PROVIDING BENEFITS FOR THE SURVIVORS OF SERVICEMEN AND VETERANS, AND FOR OTHER PURPOSES

JUNE 28, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 7089]

The Committee on Finance, to whom was referred the bill (H. R. 7089) to provide benefits for the survivors of servicemen and veterans, and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

GENERAL EXPLANATION OF BILL

H. R. 7089, the so-called survivors benefits bill, has been promoted by the administration and the armed services as military career incentive legislation.

In short the bill would cover uniformed military personnel into the contributory Social Security System, thereby supplementing military retirement and survivors benefits.

The bill was referred to the Finance Committee in the Senate primarily because it involved covering servicemen into the Social Security System. In considering the bill the Finance Committee invited collaboration with the Armed Services Committee and received it.

In the House of Representatives the bill was developed, drafted, and managed by a select committee appointed for the purpose. The House committee spent more than 2 years on the bill.

As it is now before the Senate, the bill was reported by the Senate Finance Committee after 9 months of staff study and some 2 weeks of hearings in which all interested parties were given an opportunity to be heard.

Generally, the major objectives of the bill are approved by the President, the Bureau of the Budget, Treasury, General Accounting Office, Department of Health, Education, and Welfare, and the Social Security Administration, Veterans' Administration, Department of De-

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fense and its component services, and practically all of the principal veterans organizations including the American Legion, Veterans of Foreign Wars, AMVETS, Disabled American Veterans, etc.

The bill represents extremely complex legislation involving amendments to existing laws relating to the military, the veterans benefits and the Social Security System.

Summary of Bill

Title I of the bill defines "member of a uniformed service," "reserve component of a uniformed service," "active duty," "active duty for training," "inactive duty training," "portal to portal coverage for reserves," "National Guard," "child," "parent," "widow," and "basic pay."

Title II relates to "indemnity compensation for widows, children and parents."

The bill would eliminate the present wartime-peacetime differential in rates payable for servicemen's death. It would change the basis for payment to widows from the present flat rate for all to one determined by rank or pay grade of the deceased serviceman. The widows' rate under the bill would be $112 plus 12 percent of the basic pay of the deceased husband.

Generally, the bill would revise upward compensation payable to widows of servicemen who die on or from "active duty," "active duty for training," or "inactive duty training" after December 31, 1956. Widows now on the rolls may elect to retain their present status in highly exceptional cases where that may be more advantageous. In the great majority of cases, based on deaths before January 1, 1957, where widows elect to "take" under the new provisions, the applicable basic pay would be that for the rank held by the deceased husband under the pay schedule in effect January 1, 1957.

Under the bill the definition of "widow" would be uniform and generally more liberal than the definition under existing law. As a rule, with few exceptions, the amount paid the widow with children would not be increased on account of additional children after two. Remarriage of the widow would, as at present, stop compensation payments.

Compensation rates for children where there is no eligible widow will be payable in uniform amounts without relationship to the military pay grade of the deceased father. These rates are slightly higher than the existing rates for children, $70 per month for 1 child (present wartime rate is $67), $100 for 2 children (present wartime rate is $94), $130 for 3 children (present wartime rate is $122) and $25 per month for each child in excess of 3 (present wartime additional rate is $23).

Current definitions of children are not changed. The basic age limit is 18 years, except for helpless children over 18 and of children attending school between the ages of 18 and 21.

The bill would provide supplemental compensation by the Veterans' Administration of $25 to an orphan child who is helpless and over 18 years of age in addition to the basic rate of $70 compensation payable to such a child. The bill would also provide payment of $70 per month to a helpless child over 18 where there is a widow; this payment would be made concurrently with the payment of compensation to the widow.

In a case involving an eligible widow with a child between 18 and 21 attending school, the child would be paid $35 monthly compensation in addition to payments to the widow.

Payments to parents would be changed to a sliding-scale basis with 15 rates. The rates range from $10 to $100 per month. (Under the present law there are 4 rates: peacetime—$60 in the case 1 parent and $64 where there are 2 parents; wartime—$75 and $80.

Rates paid a single parent would be controlled by the parent's annual income. The income scale on which payments may be based ranges from $750 per year to $1,750 per year. The rates of monthly compensation follow the scale in inverse order, ranging from $75 per month to $15 per month. The range for 2 parents living together would run from $50 each where the combined income is $1,000 or less to $10 each if the combined income is as high as $2,400. There are variances where parents are living apart.

Under existing law a parent may receive compensation if his income does not exceed $105 per month. Where there are 2 parents compensation may be paid if their combined income does not exceed $175 per month. Government insurance and any other payments from VA based on disability or death are not included as income.

The bill defines income as all payments received by the parents from any sources except death gratuity, donations from relief organizations, payments of veterans disability compensation and death compensation on account of other deaths, lump sum payments for burial paid by social security, and unusual medical expenses.

Widows, children or parents eligible for compensation based on a death prior to January 1, 1957, may elect to take the compensation under either existing veterans laws or under the provisions of this bill. Parents who cannot qualify for compensation under present law because of excessive income might qualify for a pro rata amount under the bill.

The right of election to the new compensation rates under the bill could not be exercised if a beneficiary now on the rolls continued to receive servicemen's indemnity (free insurance) payments. But the election could be made after the 10-year period during which such insurance payments are made, or upon waiving the indemnity payments.

Receipt of Government insurance (contract) payments, as distinguished from indemnity insurance (free insurance), would not prevent election or require an offset.

Like the present law, the bill covers deaths resulting from active duty or active duty for training, but effective January 1, 1957, it would extend new coverage for death resulting from injury sustained by reservists or national guardsmen while proceeding to or returning from training pursuant to order by competent authority.

This extended coverage would likewise apply with respect to travel to or from active duty training, without regard to whether travel was specifically authorized. One effect of the provision would be to cover cases of death from injury while enroute to weekly drill (inactive duty) training periods.

The bill would extend coverage to national guardsmen dying from disease incurred on active duty training of less than 30 days. Such coverage is now limited to death from injury.

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Survivorship benefits would be granted to members of the ROTC ordered to annual training duty of 14 days or more, including authorized travel to or from such duty. (ROTC members are not now covered for VA benefits.)

Title III relates to death gratuity.

Under this bill the service departments would pay death gratuity equal to 6 months' pay to survivors of deceased servicemen. Death must occur while on active duty, active duty training or inactive duty training. It might also occur within 120 days from discharge, if death is due to service. The Veterans' Administration determines service connection in the latter situation. (The present law provides that payment of gratuity will only be made to survivors of the Regular Establishment, Reserves, and National Guard, who die while on duty.)

The bill would restrict payment to survivors who are closely related to the servicemen. (The present law allows payment to anyone who has an insurable interest.)

The bill establishes a minimum of $800 and a maximum of $3,000 for this benefit. (The present law fixes a $468 minimum and a $7,656 maximum.)

Title IV relates to social security.

Effective January 1, 1957, members of the uniformed services would be placed under the regular contributory OASI coverage while on active duty and active duty for training.

Contributions and benefits are computed on basic pay.

The serviceman, as employee, would pay 2 percent and the United States Government, as employer, would pay 2 percent.

The present $160 gratuitous social-security wage credit for military service would be discontinued after December 31, 1956, when contributory coverage becomes effective. Authority to reimburse the OASI fund for the previous $160 free wage credits is contained in the bill.

Social-security benefits would be in addition to any Veterans' Administration compensation benefits or military retired benefits.

Both the serviceman and his wife would be eligible for social-security benefits at age 65.

Like others under social security the widow, if she has a child, would be eligible at once for social-security benefits. When the child becomes 18 years of age, the payments stop. When the widow becomes 65, she is again eligible for regular social-security benefits.

Existing OASI and civil-service retirement laws bar use of the gratuitous $160 wage credits for social security if a survivor of the veteran is entitled to benefits under the Civil Service Retirement Act based wholly or partially on military service. There is now no right to elect which benefit to take. But this bill would amend the existing law so that—

(1) A widow of a civil-service employee who, because of the $160 gratuitous wage credit, is eligible for both civil service and social-security benefits may elect to take either. But she cannot take both.

(2) Military service rendered after 1956 cannot be used to increase a widow's civil-service benefit if she is eligible for social-security benefits.

(3) Military service rendered after 1956 cannot be used by a Federal employee for civil-service retirement if he is eligible for social-security benefits.

The bill would continue payments by the Government to the railroad retirement account of $160 monthly wage credits for each month of military service performed by an individual who has at least 10 years of coverage under the Railroad Retirement Act (including coverage acquired by military service).

The Internal Revenue Code of 1954 would be amended by sections 409, 410, and 411 of the bill to extend appropriate provisions of the Federal Insurance Contributions Act to define "wages" and "employment" for service in the uniformed services.

Title V sets forth amendments and repeal provisions.

As to deaths after January 1, 1957, the bill would suspend the Servicemen's Indemnity Act providing free insurance coverage of $10,000 in peacetime, but this insurance would be revived in case of war or national emergencies involving hostilities.

The existing privilege of nondisabled veterans to take out term insurance within 120 days after separation from service would be preserved.

The right to take out insurance extended by section 620 of the National Service Life Insurance Act to service-disabled persons would be preserved.

Servicemen who surrendered insurance for cash under section 5 of the Indemnity Act, which provides that they may reinstate the same or take out new insurance within 120 days after service, would be protected in this right if they surrendered their policies prior to January 1, 1957.

The premium waiver privileges under section 622 of the USLI Act would be preserved for those policies under waiver on January 1, 1957. No new application for waiver could be made after that date. If an individual dies on or after May 1, 1957, with a policy under waiver, indemnity compensation would not be payable under this bill. Survivors would be limited to compensation payable under the present death compensation laws now administered by the Veterans' Administration.

Application of the Federal Employees' Compensation Act to reserve officers for peacetime benefits would be repealed as of January 1, 1957. Where death occurred prior to January 1, 1957, survivors could elect to "take" under this bill. Such election would terminate eligibility for FECA benefits. But the rights of any officer entitled to benefits by reason of disability incurred prior to January 1, 1957, would be protected.

Persons with active military service between October 8, 1940, and September 2, 1945, may within one year apply for and, upon a showing of good health, to be granted insurance under the National Service Life Insurance Act of 1940.

AMENDMENTS

The substantive amendments to the House bill approved by the committee are:

(*a*) The Public Health Service and Coast and Geodetic Survey were eliminated from the definition of members of the military service during peacetime.

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(*b*) The right of a veteran to take out term insurance within 120 days after separation from service was continued. The House bill would have prohibited this right to nondisabled veterans.

(*c*) In cases where the military record is corrected under section 207 of the Legislative Reorganization Act of 1946, the effective date of commencement of VA benefits would be the date application was filed for the correction.

(*d*) The Servicemen's Indemnity Act (free insurance) would be revived in case of war or national emergency involving hostilities.

(*e*) Persons with active service between October 8, 1940, and September 2, 1945, would be given the right for 1 year to apply for and, upon a showing of good health, be granted insurance under the National Service Life Insurance Act of 1940.

(*f*) Use of military service rendered after Januay 1, 1957, by a civil-service employee for both civil-service retirement and social-security benefits would be prohibited.

(*g*) Contributory social-security coverage for military personnel would be practically on the same basis as that for other covered groups.

(*h*) The $160 gratuitous wage credit is extended from April 1, 1956, to January 1, 1957.

(*i*) The effective date of the bill is January 1, 1957, unless otherwise specifically provided.

(*j*) The right of the Treasury Department to levy against the compensation for unpaid income tax is continued.

(*k*) In the absence of fraud, disbursing officers shall be liable for erroneous payments of death gratuity. The Secretary of the service concerned cannot waive recovery of erroneous or overpayments.

There are numerous technical and clarifying amendments which were recommended by the agencies concerned and approved by the Bureau of the Budget.

The bill authorizes appropriation as follows:

Cost of H. R. 7089—1st year estimate, 1957

Item	Existing law	H. R. 7089	Cost difference
Compensation	$421,000,000	$466,000,000	+$45,000,000
Insurance	41,000,000	33,000,000	−8,000,000
FECA	14,000,000	14,000,000	
Death gratuity	8,000,000	9,000,000	+1,000,000
OASI		115,000,000	+115,000,000
Reimbursed OASI		50,000,000	+50,000,000
Disability freeze		2,000,000	+2,000,000
Total	484,000,000	689,000,000	205,000,000

Cost of H. R. 7089—projected estimates after 1st year

1957	+$205,000,000	1975	+$209,000,000
1960	+210,000,000	1980	+199,000,000
1965	+203,000,000	1985	+186,000,000
1970	+186,000,000		

Section-by-Section Analysis

The following section-by-section analysis of the bill, as reported by the committee, reflects the substantive, as well as technical and clerical, amendments made by the Finance committee.

TITLE I—SHORT TITLE AND DEFINITIONS

Section 101.—This section contains the short title of the bill and a table of contents.

Section 102.—This section contains definitions of terms used in the bill.

Paragraph (1) of this section provides that "Administrator" means the Administrator of Veterans' Affairs.

Paragraph (2) defines "member of a uniformed service," and thereby specifies the persons whose deaths will entitle their survivors to benefits provided by the bill. This term has a somewhat broader meaning than it usually has in laws relating to the Armed Forces, since, in addition to members of the Army, Navy, Air Force, Marine Corps, and Coast Guard, the term includes retired officers, cadets and midshipmen in the service academies, certain members of the various branches of the ROTC, all members of the federally recognized National Guard and Air National Guard of the several States, Territories, and the District of Columbia, and persons provisionally accepted, or selected for induction, who are under orders to report to a particular place.

Paragraph (3) defines "Reserve component of a uniformed service."

Paragraph (4) defines "active duty." Clause (A) contains language substantially similar to the definition of such term in the Armed Forces Reserve Act of 1952, but goes beyond the definition in that act insofar as the definition in this bill extends to service performed by certain individuals (as a "member of a uniformed service") to whom that act does not apply. Clauses (B) and (C) include service in the service academies as active duty, and clause "C" provides that authorized travel to and from the duty or service referred to in clauses (A) and (B) shall be considered as active duty.

Paragraph (5) defines "active duty for training." Clause (A) defines this term substantially as it is defined in the Armed Forces Reserve Act of 1952, but provides that such duty is that performed by a "member of a uniformed service," as defined. Clause (B) provides that certain duty performed by members of the ROTC, NROTC, and AFROTC is so included, and clause (C) and subparagraph (6) (B) provide that certain travel to and from such duty shall also be included within the term "active duty training."

Paragraph (6) relates to "inactive duty training" and "active duty for training." Subparagraph (A) of this paragraph defines "inactive duty training" to mean training or duty (1) which is prescribed by the Secretary concerned under section 501 of the Career Compensation Act of 1949 (or any other provision of law) and (2) which is performed by a member of a Reserve component of a uniformed service.

Subparagraph (B) of this paragraph provides coverage for members of a Reserve component of a uniformed service while they are traveling to or from active duty for training or inactive duty training. Clause (i) of this subparagraph requires that the duty performed or to be performed must be authorized or required by competent authority in advance, and clause (ii) requires that the death must result from an injury incurred on or after January 1, 1957, while proceeding to or returning from active duty for training or inactive duty training. The committee has established criteria in this subpara-

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graph for consideration by the Secretary concerned, or the Administrator, in determining whether a death has resulted from an injury so incurred; however, this list is by no means intended to establish the sole criteria for consideration.

Subparagraph (C) of this paragraph provides that service performed by a member of the federally recognized National Guard or Air National Guard, the National Guard of the United States, or of the Air National Guard of the United States, under certain specific sections of the National Defense Act of June 3, 1916, shall be "active duty for training" or "inactive duty training," depending upon the character of training or duty performed.

Paragraph (7) provides that the terms "child" and "parent" have the meanings which they have in Veterans' Administration death compensation laws.

Paragraph (8) defines "widow," and makes that term more liberal for purposes of payment of dependency and indemnity compensation. Section 206 of the bill provides that persons now on, or eligible to be on, the compensation rolls of the Veterans' Administration may elect to receive dependency and indemnity compensation under the bill. Therefore, the definition of "widow" provided by this paragraph (8) will not operate to remove any person from the rolls, will not prevent any person now on the rolls from receiving the new benefits (whether or not such person meets the new definition of "widow"), and provides a more liberal definition of the term "widow" than is found in existing law with respect to all service-connected deaths in the future.

Paragraph (9) of this subsection defines "Secretary concerned."

Paragraph (10) defines "basic pay" for all purposes of the bill. Clause (A) of this subsection defines "basic pay" by cross reference to the appropriate sections of the Career Compensation Act of 1949.

Clause (B) of this paragraph defines "basic pay" with respect to the various branches of the ROTC.

The definition of "basic pay" is of importance in determining what shall be deemed to be basic pay of deceased persons under paragraph (11) of this section; in determining the increment to the basic $112 dependency and indemnity compensation paid to widows under title II; in determining the amount of the death gratuity payable under title III; and in determining the social-security benefits which will be paid, and the tax which is imposed for social-security purposes, under the amendments made by title IV.

Paragraph (11) establishes the method of determining "basic pay" for purposes of title II of the bill. Under subparagraph (A), where the deceased person died on active duty, active duty for training, or inactive duty training, his "basic pay" is that which he would have received if serving on active duty and entitled to basic pay at the time of his death.

Under subparagraph (B), where the deceased person did not die on active duty, active duty for training, or inactive duty training, his "basic pay" for purposes of title II is that which he would have received if serving on active duty, in the rank held by him on the date of his discharge or release from the last period of active duty, active duty for training, or inactive duty training, in which the disability causing his death was incurred or aggravated.

Subparagraph (C) provides a method of determining "basic pay" for the limited group of individuals not included in the definition of

"member of a uniformed service," but who today have a compensable status under Veterans' Administration laws by reason of being within the definition of the term "person who served" (as that term is used in the Veterans Regulations). The head of the department under which each such person performed the services by which he obtained a compensable status shall determine a pay grade and a rate of pay for that person under the Career Compensation Act of 1949, and such person's "basic pay" shall be the pay so prescribed. Under the last sentence of this subparagraph, such persons are to be considered as having been on active duty while performing such service.

Under subparagraph (D) whenever basic pay for the uniformed services is changed in the future, payments received by survivors under title II of the bill will also be adjusted accordingly.

Subparagraph (E) provides that persons provisionally accepted, or selected for induction who die or incur a disability while en route or after arrival at a place to which ordered, shall be deemed to be on active duty and entitled to basic pay when they so die or incur a disability.

Subparagraph (F) provides that the Secretary concerned shall certify to the Administrator the basic pay considering rank or grade and years of service of deceased persons with respect to whose deaths applications for benefits are filed.

Paragraph (12) provides coverage for men discharged or released from active duty on or after January 1, 1957 during the time necessary for them to travel to their homes from the place where they are discharged or released, and, in any event, provides coverage for them until midnight of the day on which they receive their discharge or release. In some cases (primarily involving persons retiring from the Regular components), persons are held not to have "homes" at the time of their separation, but for purposes of transportation allowances incident to their separation, are given a year to select a home.

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION

This title provides that the Administrator of Veterans' Affairs shall pay survivors of deceased veterans dependency and indemnity compensation when the deaths, no matter when they occurred, were the result of service-connected disabilities.

Whenever a veteran dies in the future from a service-connected disability, his survivors will be paid under the provisions of the bill. All survivors now on the compensation rolls may elect to continue to receive benefits under the old laws, or may elect to receive payments under the provisions of the bill in the future.

Section 201.—This section specifies the conditions under which a death occurring on or after January 1, 1957, will entitle survivors to dependency and indemnity compensation. The provisions of this section are sufficiently liberal to provide that in the case of all such deaths, persons who would be entitled to death compensation under existing law shall be entitled to dependency and indemnity compensation under the bill, and in addition includes numerous persons not covered today. These persons are (1) members of the National Guard whose deaths are the result of disease incurred or aggravated while performing active duty for training (as defined) for periods of 30 days

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or less; (2) members of the ROTC, NROTC, and AFROTC whose deaths are the result of disease or injury incurred or aggravated while on annual training duty; (3) all persons provisionally accepted, or selected for induction, who die from injury incurred while en route to or from, or while at a place to which ordered; (4) persons performing travel to and from active duty or active duty for training, or inactive duty training, under the conditions specified in section 102 (6) (B) of the bill; and (5) persons after their discharge and during the period of time required for them to return to their homes, as provided in section 102 (12) of the bill.

The "line of duty" criteria presently applicable under Veterans' Administration disability compensation laws shall continue to apply to deaths referred to in this section; the new definition of "widow" and the existing definitions of "child" and "parent" applicable to other Veterans' Administration death compensation laws shall apply in determining basic entitlement under this section; and the existing presumptions with respect to service connection of disabilities shall continue to apply for purposes of determining incurrence or aggravation of the disease or injury causing the death.

This section requires that an application must be filed for benefits under this title.

Section 202.—This section prescribes rates of dependency and indemnity compensation which shall be paid to a widow. Under subsection (a), each widow will receive $112 plus 12 percent of the basic pay of her deceased husband, with the total amount increased to the next highest dollar.

With one exception (made by subsec. (b) of this section), there is no increase in dependency and indemnity compensation paid to widows by reason of children of the deceased person. In general, additional benefits for children, and additional benefits to widows where there are children, will come from social-security payments.

By this approach, where the deceased person has a relatively low "average monthly wage" (for social-security purposes) the operation of section 203 (a) of the Social Security Act (the so-called family maximum provision) causes the payments made under that act to a widow with more than one child to be no greater than the amounts paid to a widow with only one child. In addition the deceased person may have had no entitlement to social security benefits at the time of his death. Therefore the committee has provided in subsection (b) that where the deceased person's "average monthly wage" is less than $160, or where the deceased person had no entitlement to social-security benefits, the Veterans' Administration will make supplemental payments to the widow in the amount of $30 for each child of the deceased person in excess of one. These supplemental payments, however, are limited to amounts which, when added to the social security payments (if any) made to the widow and children, will not exceed the amounts which would be paid to them under the Social Security Act if the deceased person had died fully and currently insured with an average monthly wage of $160. Under the Social Security Act at present, the maximum amount which can be paid to a widow and children where the deceased person's average monthly wage equals $160, is $128 per month.

Section 203.—This section provides for payments of dependency and indemnity compensation to children.

Subsection (a) provides that whenever there is no widow, children shall receive dependency and indemnity compensation at the rate of $70 for 1 child; $100 for 2; $130 for 3; and $25 additional for each child in excess of 3.

Subsection (b) provides that dependency and indemnity compensation paid by reason of this section shall be paid in equal shares.

Section 204.—This section provides for supplemental payments of dependency and indemnity compensation to children, to take care of certain situations which may arise because of the termination of social-security payments to a child who attains age 18.

Subsection (a) provides that an orphan child who attains age 18, and has become permanently incapable of self-support, shall receive a supplemental payment of $25 per month, in addition to any other payments to which such child is entitled.

Subsection (b) provides that where there is a widow, and a helpless child who has attained the age of 18, dependency and indemnity compensation in the amount of $70 per month shall be paid to or for such child. This payment will continue so long as the widow is entitled to dependency and indemnity compensation in her own right. When there is no such widow, the child's payment under this subsection will terminate, but will be picked up under section 203 and under section 204 (a).

Subsection (c) provides that where there is a widow entitled to dependency and indemnity compensation, and a child attains the age of 18, and is attending school, a supplemental payment will be made to that child (to compensate for his loss of social security) in the amount of $35. This payment will continue until the child leaves school, attains the age of 21, or until the widow's entitlement terminates, whichever first occurs. If the widow's entitlement terminates, the child will then be entitled to benefits under section 203.

Section 205.—This section provides for payments of dependency and indemnity compensation to parents.

Payments provided for parents will in all cases be geared to their annual income, and as annual income increases, payments under this title will decrease.

Subsection (a) of this section specifies that all payments to parents under this title shall be those prescribed under this section.

Subsection (b) provides the rates of dependency and indemnity compensation where there is only one parent.

Subsection (c) provides rates of dependency and indemnity compensation where there are two parents who are not living together. These rates are exactly one-half of the rates prescribed for two parents living together.

Subsection (d) provides rates of dependency and indemnity compensation for parents living together, and for remarried parents.

Subsection (e) provides for the filing of annual income statements by dependent parents.

Subsection (f) provides for administrative recovery of overpayments made to parents under this section.

Subsection (g) provides that all payments, with six exceptions, received by parents shall be considered as "income." These exceptions are—

(1) payment of the 6-month death gratuity;
(2) charitable donations to the parents;

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(3) payments of dependency and indemnity compensation under this title;

(4) payments of death or disability compensation under other Veterans' Administration laws;

(5) lump-sum payments under title II of the Social Security Act; and

(6) amounts spent by parents for unusual medical expenses.

Section 206.—This section provides for payments of dependency and indemnity compensation in the case of deaths occurring prior to January 1, 1957.

Subsection (a) provides that any person who on or after December 31, 1956, is eligible for death compensation under other Veterans' Administration laws by reason of a death occurring before that date may receive dependency and indemnity compensation under this title. Paragraph (1) of this subsection provides that payments under this title may be made to persons on the rolls without regard to the character of discharge. Paragraph (2) of this subsection provides that parents who apply under this section must meet the income limitations established by this bill. Both paragraphs of this subsection provide that if existing criteria are liberalized in the future so that additional persons may receive death compensation under Veterans' Administration laws by reason of deaths occurring before January 1, 1957, such persons may receive benefits under the bill.

Subsection (b) provides that where benefits are granted under this title in cases of prior deaths, no payments shall be made by reason of such deaths to the beneficiary concerned under other Veterans' Administration laws or under the Federal Employees' Compensation Act.

Under paragraph (1) of this subsection, an election by a widow is binding upon the children of the deceased person, and paragraph (2) provides that an election by a child or a parent terminates his entitlement to benefits under such other laws.

Subsection (c) provides that where there is more than one child eligible for benefits by reason of this section, and all such children do not elect to receive such benefits, benefits under this title shall be paid to the children who do apply in the amounts they would receive if all such children had applied, and benefits under other laws shall be paid as if no application had been made under this title.

Subsection (d) provides with respect to parents that an application by one shall provide him only with the benefits he would have received if both parents had applied, and benefits to the other parent shall not exceed those which would be payable if no application under this title had been made.

Subsection (e) prohibits payments under this section to beneficiaries who are in receipt of payments under the Servicemen's Indemnity Act of 1951. Such beneficiaries may receive the new benefits when their entitlement to servicemen's indemnity payments ceases, whether by lapse of time or by their renunciation of their right to continue to receive such payments. The second sentence of paragraph (1) of this section prohibits payments to any beneficiary who has assigned his interest in servicemen's indemnity after the date the provisions of this bill first became public knowledge. No payments shall be made to any such beneficiary so long as the portion of indemnity he assigned is payable to any person. This provision is necessary in order to pre-

vent beneficiaries from becoming eligible for the new and more generous rates of compensation by assigning their interest in servicemen's indemnity to another close relative of the deceased person.

Paragraph (2) of this subsection provides that where a beneficiary may not receive payments under the Servicemen's Indemnity Act of 1951 by reason of the first sentence of paragraph (1), no other person may receive such payments.

Section 207.—This section provides that the Veterans' Administration shall use the same standards for determining service-connection of deaths entitling beneficiaries to dependency and indemnity compensation as it uses in determining service-connection of disabilities for purposes of payment of disability compensation.

Section 208.—This section provides that no payments of death compensation or death pension shall be made under any other law administered by the Veterans' Administration to any person eligible for benefits under this title by reason of a death occurring on or after January 1, 1957. The section also provides that no payments shall be made under the Federal Employees' Compensation Act by reason of any such death. This provision, coupled with section 501 (f) and sections 502 (5) and 502 (6) of the bill, will operate to prevent any payments being made under the Federal Employees' Compensation Act to the survivors of any member of a Reserve component of a uniformed service whose death occurs on or after January 1, 1957, and results from a service-connected cause. This section and sections 501 (f) and 502 (5) and (6) do not, however, affect the FECA benefits payable in the case of disabilities or deaths suffered by temporary members of the Coast Guard Reserve and members of the Coast Guard Auxiliary, or deaths suffered by former members of the Women's Army Auxiliary Corps.

These sections do not affect the eligibility of any person to receive Veterans' Administration or Federal Employees' Compensation Act benefits by reason of deaths occurring prior to January 1, 1957.

Section 209.—This section contains administrative provisions.

Subsection (a) provides that the general administrative provisions, provisions relating to definitions of terms, and other regulatory provisions provided in the Veterans' Administration disability and death compensation laws shall apply in the administration of title II of the bill.

Subsection (b) establishes an effective date for awards of dependency and indemnity compensation to persons who are on the rolls and elect under section 206 of the bill to receive the new benefits. It will take some time for these persons to become aware of the new program, and will take some time for them to decide whether to elect the new rates. To provide ample time for such persons, the bill provides that applications for the new benefits made by such persons on or before July 1, 1957, shall become effective as of January 1, 1957, but that applications made after July 1, 1957, shall become effective as of the date they are filed. If, however, an application is filed within 1 year after the date of the death entitling a beneficiary to benefits, benefits are paid under existing law retroactively to the date of death. It is intended that this subsection shall make no change in this practice with respect to deaths occurring before the effective date of the bill; but if an application is filed by reason of a death occurring before

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January 1, 1957, and is filed within 1 year after the date of death and the person filing the claim elects to receive the benefits of the bill, benefits under the bill shall be paid only from January 1, 1957, and benefits under other laws shall be paid under them through December 31, 1956.

Subsection (c) provides the same requirements for character of discharges as is presently required for other Veterans' Administration benefits.

Subsection (d) provides that a child in receipt of dependency and indemnity compensation by reason of the death of one parent may not receive such compensation or death compensation by reason of the death of another parent who is not in the same parental line.

Subsection (e) provides the same "continues cohabitation" requirement and remarriage bar with respect to widows as is found in existing Veterans' Administration laws today.

Subsection (f) provides the same authority for the Administrator of Veterans' Affairs to waive erroneous payments or overpayments made to beneficiaries as he has today under other Veterans' Administration laws.

Section 210.—Section 210, making payments of dependency and indemnity compensation nonassignable, exempt from taxation and claims of creditors, and not subject to attachment or seizure, is identical with existing provisions of law relating to death compensation and death pension payable under other Veterans' Administration laws. Treasury Department may levy against benefits for unpaid taxes.

TITLE III—DEATH GRATUITY

The death gratuity today, as in this title, is a gratuitous payment made upon the death of a member of a uniformed service, which is equal to 6 months' pay of the deceased person.

Section 301.—This section establishes the criteria for determining whether a death gratuity will be paid to survivors of a deceased person; establishes the amount of such death gratuity; and establishes the survivors entitled thereto.

Subsection (a) provides for payment of the death gratuity in the case of the death of a "member of a uniformed service," as defined in section 102, while on "active duty," "active duty for training," or "inactive duty training," as so defined. This has the effect of covering an additional group of persons under the death gratuity provisions who are not so covered today. These persons are the following:

(1) Members of the National Guard, and reservists, whose deaths are the result of disease, and occur (A) while they are performing active duty for training for periods of 30 days or less, or (B) while they are on inactive duty training.

(2) Members of the ROTC, AFROTC, and NROTC whose deaths occur while they are on annual training duty for periods of 14 days or more;

(3) Persons provisionally accepted, or selected for induction, who die while en route to, or from, or at the place to which ordered.

(4) Persons performing authorized travel to or from active duty or active duty for training; persons in a travel status under section 102 (6) (B) of the bill; and persons covered until midnight of the date of discharge or release and during the time necessary to travel to their homes, under section 102 (12) of the bill.

(5) All persons whose deaths are the result of "willful misconduct," and all reservists and National Guardsmen whose deaths are not "in line of duty."

Subsection (b) of this section provides that the death gratuity shall equal 6 months' basic pay, plus special and incentive pays received by the deceased person, but shall not be less than $800 nor more than $3,000. Except for the maximum and minimum provisions, this follows existing law.

Subsection (c) lists the survivors eligible to receive the death gratuity. The permitted class of beneficiaries is more restricted than is provided in existing law, being confined to the widow, children, parents, and brothers and sisters. Existing law has been construed to provide for payment to any person having an "insurable interest" in the life of the deceased person.

Subsections (c) and (d) of this section provide that the death gratuity shall be paid only to living survivors, and shall be paid according to the priorities established in subsection (c). Since the gratuity is designed to care for the emergency needs of survivors, there is no reason for the gratuity to be paid to the estate of any person.

Section 302.—This section provides that each Secretary of a military department shall, to the maximum extent feasible, delegate to commanding officers of commands, installations, or districts, for further delegation where appropriate, the authority to determine the survivors entitled to the death gratuity, and provides that each such Secretary shall authorize the appropriate disbursing or certifying officers to make the payments to the survivors so determined (or certify payments due to them, in the case of the Coast Guard).

Section 303.—This section provides death gratuity coverage for 120 days after discharge or release from active duty, or active duty for training where the death results from a service-connected disability. However, the deceased person must have been discharged or released from the service under conditions other than dishonorable.

Subsection (a) provides that the gratuity shall be paid by the Secretary concerned, after the Administrator of Veterans' Affairs has determined that the death was service-connected.

Subsection (b) is intended to simplify the procedures which must be followed by claimants who are entitled to the death gratuity by reason of this section. Where the Veterans' Administration receives a claim for dependency and indemnity compensation, and it appears that the death gratuity may be payable by reason of this section, the Administrator shall certify that fact to the Secretary concerned who shall then make all determinations as to entitlement except determinations as to service connection.

Subsection (c) provides that determinations made by the Veterans' Administration under this section shall be made in exactly the same manner as determinations made under title II of the bill but as indicated above, line of duty is not to be factor.

Subsection (d) provides that the deceased person will be deemed to have been entitled to basic pay at the time of his death.

Subsection (e) provides that the deceased person must have been discharged or released under conditions other than dishonorable.

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Section 304.—This section contains administrative provisions. Subsection (a) provides that the death gratuity shall not be paid if the deceased person was executed for a crime, unless the execution was performed by an enemy of the United States, or by a hostile force with which the Armed Forces of the United States have engaged in armed conflict.

Subsection (b) specifies the source of funds for payment of the death gratuity.

Subsection (c) provides for two situations. Where a reservist performing inactive-duty training without pay is killed, he will be deemed to have been entitled to basic pay at the time of death.

The second sentence of this subsection is designed to insure that payments of the death gratuity will continue to be made in cases where persons who suffer disability while on short tours of duty, or on inactive-duty training, are hospitalized and, after their original orders (if any) have expired, die while so hospitalized. The practice of the services in the past has been to place such individuals at the time of their injury in a pay status, and retain them in a pay status while they are receiving necessary medical care. In the event of the death of such persons while in a pay status, the death gratuity is payable today. This sentence is intended to provide that the services will continue that practice.

Subsection (d) of this section establishes criteria for determining the person who is the spouse of the deceased person for purposes of making payments under this title.

TITLE IV—OLD-AGE AND SURVIVORS INSURANCE

Title IV is divided into two parts. Part A (consisting of secs. 401 through 408) contains amendments to title II of the Social Security Act as well as certain other provisions (including amendments to the Railroad Retirement Act of 1937 and the Civil Service Retirement Act of May 29, 1930) relating to the old-age and survivors insurance program. Part B (consisting of secs. 409 through 411) contains corresponding amendments to the Internal Revenue Code of 1954.

PART A—PROVISIONS RELATING TO TITLE II OF THE SOCIAL SECURITY ACT

Section 401.—This section amends section 209 of the Social Security Act (which defines "wages" for purposes of the old-age and survivors insurance program) so as to provide that, in the case of an individual performing service after December 1956 as a member of a uniformed service, only such individual's basic pay (as described in sec. 102 (10) of the bill) will count as "wages" for purposes of computing the benefits to which he and his survivors may become entitled under that program.

Section 402.—This section amends section 210 of the Social Security Act (which defines "employment" and related terms for purposes of the old-age and survivors insurance program) so as to provide coverage under that program, on a regular contributory basis, for service performed in any of the uniformed services.

Subsection (a) of this section adds two new subsections, (m) and (n), at the end of section 210. Under the new subsection (m), except as provided in paragraph (4) thereof, service performed after Decem-

ber 1956 by a member of a uniformed service on active duty (not including service performed while on leave without pay) will constitute covered employment for old-age and survivors insurance purposes. The term "active duty" (which includes active duty for training) is defined by reference to the definitions contained in section 102 of the bill.

Paragraph (4) of the new subsection (m) provides, however, that if an individual uses his service as a member of a uniformed service in the computation of any railroad retirement annuity to which he may be entitled, such service may not be counted as "employment" for old-age and survivors insurance purposes.

The new subsection (n) contains a definition of the terms "member of a uniformed service" for old-age and survivors insurance purposes. This definition is the same as the corresponding definition (contained in sec. 102 (2) of the bill) for purposes of dependency and idemnity compensation payable by the Veterans' Administration.

Subsection (b) of this section amends section 205 (p) (1) of the Social Security Act so as to make it clear that the basic determinations with respect to employment and wages in the case of members of the uniformed services will be made by the Secretaries concerned, and will be accepted as final and conclusive by the Secretary of Health, Education, and Welfare for old-age and survivors insurance purposes.

Section 403.—This section amends section 202 (i) of the Social Security Act, which provides for the payment of a lump-sum death payment to the widow (or other person paying the burial expenses) upon the death of an insured individual. Section 202 (i) presently requires that application for such payment be made within 2 years after the death of the insured individual; except that where a serviceman dies overseas prior to a specified date, and he is returned to the United States for interment or reinterment, the application may be filed at any time within 2 years after such interment or reinterment. The effect of the amendment made by section 403 of the bill is to continue this provision, extending the period during which application for the lump-sum death payment may be filed in the case of servicemen who are returned to the United States for interment or reinterment, on a permanent basis for members of the uniformed services who die overseas after December 1956.

Section 404.—This section amends section 217 of the Social Security Act, which affords a gratuitous wage credit of $160 a month for active military or naval service performed during and after World War II.

Subsection (a) of this section amends section 217 (e) of the Social Security Act, which affords the gratuitous wage credit for service after the end of World War II. Section 217 (e) (1) (B) presently provides that the credit for any such service may not be counted for old-age and survivors insurance purposes if a benefit is payable under any other Federal law or retirement system (other than by the Veterans' Administration) on the basis of the same service. Under the amendment made by subsection (a) no gratuitous wage credits would be afforded after December 1956; however, a member of a uniformed service who is still in the active service after 1956 will be permitted to count his active military or naval service after 1950 for old-age and survivors insurance purposes, notwithstanding section

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217 (e) (1) (B), if his only other Federal retirement benefits which are based on such service are payable by one of the uniformed services.

Subsection (b) of this section amends section 217 of the Social Security Act by adding at the end thereof a new subsection (f). The new subsection (f) would provide that where the widow or child of a former serviceman is entitled under the Civil Service Retirement Act of May 29, 1930, to a survivor's annuity in the computation of which such serviceman's military or naval service (performed after September 15, 1940, and before January 1, 1957 was included, such widow or child may elect, by irrevocably waiving his or her right to the annuity, to have such military or naval service included after December 1956 in the computation of a monthly survivors benefit under title II of the Social Security Act, notwithstanding section 217 (a) (1) (B) or 217 (e) (1) (B) of that act.

Subsection (c) of this section would permit a widow or child who waives his or her right to a survivor's annuity under the Civil Service Retirement Act (as permitted under the amendment made by subsec. (b)) in order to use the serviceman's military or naval service in the computation of a monthly survivors benefit under title II of the Social Security Act, and who already is entitled to such a benefit by reason of the serviceman's other employment or self-employment, to obtain a recomputation of the serviceman's primary insurance amount so as to reflect in the amount of the benefit the inclusion of such service.

It should be noted that any service as a member of a uniformed service performed (on a contributory basis) after December 1956 may be used both for old-age and survivors insurance purposes and in the computation of benefits under another Federal retirement system, except in the case of civil-service survivor annuitants as provided in section 408 of the bill.

Section 405.—This section, which amends section 217 of the Social Security Act, authorizes appropriations to reimburse the Federal old-age and survivors insurance trust fund for the actual cost to it of the gratuitous (tax-free) wage credits provided by such section 217 for active military or naval service performed after September 15, 1940 (and prior to January 1, 1957). The amount of such reimbursement would be computed on the "excess cost" basis, and would include the full cost of the old-age and survivors insurance benefits payable in cases where the beneficiary's basic entitlement depends on such service as well as the additional cost of such benefits in cases where some benefits (though smaller in amount) would be payable without such service. The lump sum required to reimburse the trust fund for the additional cost of all such benefits paid before July 1956 would be determined by the Secretary of Health, Education, and Welfare, and would be repaid to such fund (with interest) by annual appropriations over a 10-year period; and the amount required to reimburse the fund for the additional cost each year of such benefits paid after June 1956 would be repaid to the fund by annual appropriations on a current basis.

Section 406.—This section adds a new subsection (o) to section 202 of the Social Security Act. The new subsection (o) makes it clear that, in the case of monthly survivors benefits payable under such section 202 to a widow, child, or parent of a deceased individual who was a member of a uniformed service, the requirement that an application for such benefits be filed will be satisfied if such widow, child, or

parent files an application for such benefits with the Administrator of Veterans' Affairs on the application form prescribed under section 601 of the bill.

Section 407.—This section contains amendments to the Railroad Retirement Act of 1937. These amendments, which take into account the existing interrelation between the railroad retirement system and the old-age and survivors insurance system, are designed to continue the present policy under both systems with respect to the performance by workers of military or naval service.

(1) After 1956 there will be creditable under railroad retirement, wage credits of $160 for each month of military service performed by an individual who has at least 10 years of coverage under the Railroad Retirement Act (including coverage acquired by military service).

(2) The compensation received for military service by an individual who, previously, was in railroad employment within the 2-year period immediately preceding his entrance into military service will be subject to the regular 4 percent social security tax (2 percent being paid by the individual and 2 percent by the Government). However, the Government will, by direct appropriations, reimburse the railroad retirement account for each month of military service performed by such individual by an amount equal to 12½ percent of the $160 wage credit, minus the amount of the 4 percent social security tax paid with respect to his military compensation. (The 12½ percent represents the combined rates of tax payable by both the employer and employee under the Railroad Retirement Act.)

(3) Should the military service be used for payment of social security under title II of the act, no adjustment would be required between railroad retirement fund and social security. The 4 percent tax for social security would be used to pay the benefits. However, should the military service be used for benefits under the Railroad Retirement Act, the OASI trust fund would be charged by the railroad retirement account for the amount of the social security benefits which would be attributable to the military service on which he 4 percent social security taxes were collected.

(4) An individual would not be permitted to receive both benefits on the basis of his military service.

Section 408.—This section amends section 5 of the Civil Service Retirement Act of May 29, 1930, so as to provide that the widow or child of an individual who performed service in the uniformed services after 1956 may not use such service for civil service survivor annuity purposes if he or she is entitled (or would upon proper application be entitled) to any monthly survivor benefits under section 202 of the Social Security Act. If the widow is without minor children and will become entitled to such benefits only upon attaining age 65 at a later time, such service may, however, be included in the computation of her civil service survivor annuity until that time. Military service rendered after 1956 cannot be used by a Federal employee for Civil Service Retirement if he is eligible for social security benefits.

PART B—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Section 409.—This section amends section 3121 (i) of the Internal Revenue Code of 1954 to provide that in the case of an individual

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performing service after December 1956 as a member of a uniformed service, only such individual's basic pay (as described in sec. 102 (10) of the bill), up to a maximum of $4,200 in any calendar year, will count as "wages" for purposes of tax under the Federal Insurance Contributions Act. The definition of members of a uniformed service in this bill contemplates inclusion of chaplains and other professional personnel in the respective military services for purposes of this section. This amendment corresponds to the amendment made by section 401 of the bill to section 209 of the Social Security Act.

Section 410.—Subsection (a) of this section amends section 3121 of the Internal Revenue Code of 1954 by adding two new subsections, (m) and (n), at the end thereof. Under the new subsection (m), service performed after December 1956 by a member of a uniformed service on active duty (not including service performed while on leave without pay) will constitute "employment" for purposes of the Federal Insurance Contributions Act. The term "active duty" (which includes active duty for training) is defined by reference to the definitions contained in section 102 of the bill. The new subsection (n) contains a definition of the term "member of a uniformed service" for purposes of the Federal Insurance Contributions Act; this definition is the same as the corresponding definition (contained in sec. 102 (2) of the bill) for purposes of dependency and indemnity compensation payable by the Veterans' Administration. The amendment made by subsection (a) of this section of the bill corresponds generally to the amendment made by section 402 (a) of the bill to section 210 of the Social Security Act.

Subsection (b) of this section amends section 3122 of the Internal Revenue Code of 1954 so as to make it clear that the basic determinations with respect to employment and wages in the case of members of the uniformed services will be made by the Secretaries concerned, and will be accepted as final and conclusive by the Secretary of the Treasury for purposes of the Federal Insurance Contributions Act. This amendment corresponds to the amendment made by section 402 (b) of the bill to section 205 (p) (1) of the Social Security Act.

Subsection (c) of this section amends section 3122 of the Internal Revenue Code of 1954 so as to make it clear that payments of the employer's tax under the Federal Insurance Contributions Act, with respect to service performed by members of the uniformed services after December 1956, will be made from appropriations available for the pay of such members.

Section 411.—This section amends section 6051 (b) of the Internal Revenue Code of 1954, which provides a special rule with respect to the information to be contained on employees' tax receipts in the case of compensation paid for service in the Armed Forces, so as to reflect the coverage of the uniformed services under the old-age and survivors' insurance system pursuant to the preceding provisions of the bill.

TITLE V—AMENDMENTS AND REPEALS

Section 501 of this title contain subsections making specific amendments to existing laws.

Subsection (a).—Subsection (a) amends the National Service Life Insurance Act of 1940 in four respects. Paragraph (1) of this subsection amends the last sentence of section 620 of that act so as to provide

that the insurance which is granted to disabled veterans of service on or after June 27, 1950, will be similarly granted to all disabled persons granted dependency and indemnity compensation coverage by the bill. Under this amendment, every person who can today obtain this disability insurance will retain the rights he has today, and the new groups first given survivor protection by the bill will also have the right to obtain this insurance.

Paragraphs 2 and 3 amend section 621 of the National Service Life Insurance Act of 1940. This amendment will continue the right of nondisabled individuals to apply for National Service life term insurance within 120 days after they are discharged or released on or after January 1, 1957. There will be no additional cost to the Government because of this amendment. Under this amendment all benefit payments and administrative costs of this insurance would be borne by the premium proceeds. This is accomplished by placing all premiums in the appropriation and making all payments therefrom. Experience has shown that the surplus in the former revolving fund, which will be transferred to the appropriation, was more than adequate to bear the administrative cost.

Subparagraph (A) of paragraph 4 designates the existing section 622 of the National Service Life Insurance Act of 1940 as section (a), and adds a new subsection (b) at the end of such subsection. The new subsection (b) provides that no application for waivers of premiums under such section 622 made on or after January 1, 1957, shall be of any effect except applications filed (1) pursuant to the first proviso of subsection (a) or (2) during a period of war emergency. In the latter case, any such waiver granted would be effective only during the period of such war emergency.

Individuals having their policies under waiver may keep their policies under waiver of premiums; however, in any such case, if such an individual dies from a service-connected cause on or after May 1, 1957, having his policy under waiver, his survivors will not receive the survivor protection provided by title II, of this bill, but will receive death compensation from the Veterans' Administration under the laws in effect on December 31, 1956, or as thereafter amended. Although subsection (o) of this section 501 provides that deaths on or after January 1, 1957, shall not give entitlement to such benefits, this subparagraph (B) makes a limited exception to the amendment made by that subsection, by providing that deaths occurring before May 1, 1957, shall not preclude survivors from obtaining the new rates provided by the bill. Individuals in the service have 120 days after the effective date of the bill to decide (1) whether they wish to receive the new survivor protection coverage provided by the bill, or (2) whether they wish to retain their policies under waiver of premiums, and provide their survivors with existing rates of VA death compensation in case their deaths occur on or after May 1, 1957.

It should be noted that outstanding waivers can be canceled at any time, either before or after May 1, 1957, and thereby provide survivors protection under the bill.

Paragraph (5) of this subsection makes no change in existing law. Section 5 of the Servicemen's Indemnity Act of 1951 provides today that certain insurance on a permanent plan which has been surrendered for cash, and certain term insurance which has expired,

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may be reinstated under certain conditions. The new section 623 is designed to preserve these rights and, in view of the fact that indemnity protection will not be available during peacetime, provision is also made for accelerating the time within which they may exercise these rights.

Paragraph (7) of this subsection contains a savings provision designed to insure that nothing in the amendments made to sections 620 and 621 of the National Service Life Insurance Act of 1940 by paragraphs (1) and (2), respectively, of this subsection shall be construed (A) to cancel or restrict rights under insurance contracts issued under such act prior to January 1, 1957, or (B) to cancel or restrict rights or privileges (arising by reason of service in or with the Armed Forces which begins before January 1, 1957) which any person, who is not a member or former member of a uniformed service within the meaning of the bill, has to apply for, and be granted, insurance under such act.

Subsection (b).—This subsection amends section 304 of the Naval Reserve Act of 1938 (1) by designating that section as subsection (a); (2) by deleting all of the provisions of that section which grant Federal Employees' Compensation Act benefits to naval reservists; and (3) by adding a new subsection (b) at the end of that section.

The new subsection (b) proposed to be added to that section makes no change in existing law, but merely places in a new place in such section 304 provisions which are interwoven with the matter deleted from section 304 by the amendment referred to in clause (2) of the preceding paragraph.

Subsection (c).—This subsection amends section 2 of the act of August 12, 1935, so as to provide specifically for criminal penalties for fiduciaries who misappropriate payments under this act made to them for beneficiaries.

Subsection (d).—This subsection amends section 21 of the World War Veterans' Act, 1924, to provide specific authority for payments of dependency and indemnity compensation to guardians of beneficiaries, and other fiduciaries.

Subsections (e) and (f).—Provide that the same rules shall obtain with respect to payments of dependency and indemnity compensation to survivors of veterans of the Army of the Philippines and Philippine Scouts as obtain with respect to payments of death compensation under other Veterans' Administration laws. The amendments also provide that the annual income limitations prescribed for payments to parents under section 205 of the bill shall, in the Philippine Islands, be determined on the basis of one peso for one dollar.

Subsection (g).—Subsection (g) of this section amends paragraph V of Veterans Regulation No. 2 (a), to provide specifically that payments of dependency and indemnity compensation unpaid at the death of a beneficiary shall be paid to other persons just as is the case today with respect to death compensation.

Subsection (h).—This subsection amends section 11 of the Uniformed Services Contingency Option Act of 1953. That section provides today that payments made under that act shall not be considered as "income"; however, this subsection amends that act to insure that there will be no doubt that payments made under that act shall be considered as income in determining eligibility of a parent for benefits.

Subsection (*i*).—This subsection amends the second sentence of paragraph XIII of Veterans Regulation No. 10 to provide that the receipt of dependency and indemnity compensation under the bill shall not bar a recipient who otherwise qualifies from receiving pension or compensation from the Veterans' Administration. Likewise, the receipt of pension, compensation, or dependency and indemnity compensation, shall not bar a recipient who otherwise qualifies from receiving dependency and indemnity compensation. It is not intended, however, that this provision shall in any way override the express provision in section 209 (d) of the bill relating to the dependency and indemnity compensation payable to a child based upon the death of more than one parent.

Subsection (*j*).—This subsection amends section 15 of Public Law 2, 73d Congress, so as to provide clearly and unmistakably in the law that where any person has committed any fraudulent act in connection with a claim for benefits under other Veterans' Administration laws providing for payment of compensation, or (because of nonspecific cross references to this section 15 contained in other laws) similarly, has committed any fraudulent act in connection with a claim for benefits under other Veterans' Administration laws, such person shall forfeit all his benefits under this bill, and under such other laws, and in addition, may be punished by fine and imprisonment.

Subsection (*k*).—This subsection amends section 3 of the act of October 17, 1940, so as to provide specific authority for the Administrator of Veterans' Affairs to apportion to children of the deceased person any part of the dependency and indemnity compensation paid to a widow, where there are children who are not in her care.

Subsection (*l*).—This subsection amends the act of September 7, 1944, so as to provide that the effective date of awards of dependency and indemnity compensation under the bill where a person is reported dead, or found to be dead, shall be the same as is presently provided by that act in the case of death pension or death compensation. Such act of September 7, 1944, provides that the effective date of such awards shall be the day following the date fixed by the Secretary concerned as the date of death, if a claim for benefits is filed within 1 year after such finding is made.

Subsections (*m*) *and* (*n*).—Amend provisions of law which are of very limited application today, so as to have these sections (which deal with awards of death compensation) specifically provide that they are no longer of application in the case of deaths occurring after December 31, 1956.

Subsection (*o*).—Subsection (o) amends the paragraphs of the Veterans Regulations which today provide for payment of death compensation to survivors of veterans who die service-connected deaths. The amendments provide that these paragraphs shall not apply to deaths occurring on or after January 1, 1957.

Subsection (*p*).—This subsection is a technical amendment to the Internal Revenue Code of 1954, placed therein to serve as a guide to tax lawyers that there is an exemption from taxation in the case of dependency and indemnity compensation, provided in section 210 of the bill.

Subsection (*q*).—Provides that the current program of free indemnity, under the Servicemen's Indemnity Act of 1951, is continued, but its application to a person in the active service would be limited for only periods of war or national emergency involving hostilities.

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Subsection (r).—Provides that in cases where the military record is corrected under section 207 of the Legislative Reorganization Act of 1946, the effective date of commencement of Veterans' Administration benefits will be the date the application was filed for correction of the record.

Section 502.—This section contains a list of acts and parts of acts which are repealed by the bill.

Paragraph (1) repeals the act of December 17, 1919, which today provides for payment of the 6 months' death gratuity to dependents of members of the Regular Army.

Paragraph (2) repeals a paragraph in an appropriation bill of June 4, 1920, which provides for payment of the 6 months' death gratuity to dependents of members of the Regular Navy and Marine Corps.

Paragraph (3) repeals an obsolete provision of law granting the 6 months' death gratuity to dependents of Army nurses.

Paragraph (4) repeals the provision of law granting the 6 months' death gratuity to dependents of members of the Fleet Reserve and Fleet Marine Corps Reserve.

Paragraph (5) repeals the act of July 15, 1939, which grants Federal Employees' Compensation Act coverage to members of the Army and Air Force Reserve.

Paragraph (6) repeals the act of July 18, 1940, which grants Federal Employees' Compensation Act coverage to certain reservists who suffered injuries prior to July 15, 1939.

Paragraph (7) repeals section 489 of title 14 of the United States Code, which grants the 6 months' death gratuity to dependents of members of the Coast Guard.

TITLE VI—MISCELLANEOUS

Section 601.—This section provides that there shall be no necessity for a claimant to file more than one basic application for benefits under the Social Security Act and under title II of the bill, and that, to the maximum feasible extent, there shall be no necessity for a claimant to file any particular item of documentary evidence substantiating a claim more than once under such act and title. The section is not intended to foreclose either the Veterans' Administration or the Department of Health, Education, and Welfare from contacting a claimant to procure additional information, or to inform a claimant of his or her rights.

Section 602 would restore for 1 year the right for persons who had active service between October 8, 1940, and September 2, 1945, to apply for and, upon a showing of good health, to be granted insurance under the National Service Life Insurance Act of 1940.

Section 603.—This section contains the effective date of the bill, and a saving provision.

Subsection (a) provides that the bill shall take effect as of January 1, 1957.

Subsection (b) provides that none of the amendments or repeals contained in the bill shall operate to deprive any person of any right to payments which he has by reason of a disability or death occurring prior to January 1, 1957; nor shall anything in any such amendment or repeal deprive any person of any right to which he is entitled under the Federal Employees' Compensation Act by reason of his own disability occurring prior to January 1, 1957.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old-Age Insurance Benefits

SEC. 202. * * *

Lump-Sum Death Payments

(i) Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to $255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. [In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before July 1955, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.] *In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to*

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such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 210 (m) (1) are applicable, and who is returned to any of such States, or the District of Columbia, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

Application for Benefits by Survivors of Members and Former Members of the Uniformed Services

(o) In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act, shall satisfy the requirement of such subsection (d), (e,) (g), or (h) that an application for such benefits be filed.

* * * * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

* * * * * * *

Special Rules in Case of Federal Service

(p) (1) With respect to service included as employment under section 210 which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, *including service, performed as a member of a uniformed service, to which the provisions of subsection (m) (1) of such section are applicable,* the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 209, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954 and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

* * * * * * *

DEFINITION OF WAGES

SEC. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of

this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) (1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,200 with respect to employment has been paid to an individual during any calendar year after 1954, is paid to such individual during such calendar year;

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165 (a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501 (a) of the Internal Revenue Code of 1954 unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954, the requirements of sections 401 and 501 (a) of the Internal Revenue Code of 1954;

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or in the case of a payment after 1954 under section 3101 of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law;

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(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210 (f) (5);

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 210 (f) (5);

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor, if the cash remuneration paid in such year by the employer to the employee for such labor is less than $100;

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains retirement age (as defined in section 216 (a)), if he did not work for the employer in the period for which such payment is made; or

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 210 (k) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50.

For purposes of this title, in the case of domestic service described in subsection (g) (2), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g) (2).

For purposes of this title, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 210 (m) (1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102 (10) of the Servicemen's and Veterans' Survivor Benefits Act.

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

* * * * * * *

Service in the Uniformed Services

(m) (1) Except as provided in paragraph (4), the term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term "active duty" means "active duty" as described in section 102 of the Servicemen's and Veterans' Survivor Benefits Act, except that it shall also include "active duty for training" as described in such section.

(3) The term "inactive duty training" means "inactive duty training" as described in such section 102.

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 4 of the Railroad Retirement Act of 1937. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare, as provided in section 4 (p) (2) of that Act, with respect to all such service which is so creditable.

(B) In any case where benefits under this title are already payable on the basis of such individual's wages and self-employment income at the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this title on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A), and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

Member of a Uniformed Service

(n) The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 102 (3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

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(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty, and

(5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty; or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

* * * * * * *

BENEFITS IN CASE OF VETERANS

SEC. 217. * * *

(e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this title on the basis of wages and self-employment income of any veteran (as defined in paragraph (4)), and for purposes of section 216 (i) (3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to [July 1, 1955] *January 1, 1957*. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to [July 1, 1955] *January 1, 1957*, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based The provisions of clause (B) shall also not apply for purposes of section 216 (i) (3). *In the case of monthly benefits under this title for months after December 1956 (and any lump-sum death payment under this title with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service*

(as a member of a uniformed service) to which the provisions of section 210 (m) (1) are applicable, wages which would but for the provisions of clause (B), be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to [July 1, 1955] *January 1, 1957*, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to [July 1, 1955] *January 1, 1957*, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to [July 1, 1955] *January 1, 1957*, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2)) or a veteran (as defined in subsection (e) (4)) has died or shall hereafter die, and his widow or child is entitled under the Civil Service Retirement Act May 29, 1930, as amended, to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) or clause (B) of subsection (e) (1) shall not operate (solely by reason of such annuity) to make such

subsection inapplicable in the case of any monthly benefit under section 202 which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 202 to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child, after December 1956, waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such Act of May 29, 1930, as amended, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or, if there is no widow, all the children, waive their rights to receive annuities under the Civil Service Retirement Act of May 29, 1930, as amended, based on such veteran's military or civilian service.

(g) (1) There are hereby authorized to be appropriated to the Trust Fund annually, as benefits under this title are paid after June 1956, such sums as the Secretary of Health, Education, and Welfare determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e), of such benefits (including lump-sum death payments).

(2) The Secretary shall, before October 1, 1958, determine the amount which would place the Trust Fund in the same position in which it would have been at the close of June 30, 1956, if section 210 of this Act, as in effect prior to the Social Security Act Amendments of 1950, and section 217 of this Act (including amendments thereof), had not been enacted. There are hereby authorized to be appropriated to the Trust Fund annually, during the first ten fiscal years beginning after such determination is made, sums aggregating the amount so determined, plus interest accruing on such amount (as reduced by appropriations made pursuant to this paragraph) for each fiscal year beginning after June 30, 1956, at a rate for such fiscal year equal to the average rate of interest (as determined by the Managing Trustee) earned on the invested assets of the Trust Fund during the preceding fiscal year.

RAILROAD RETIREMENT ACT OF 1937

DEFINITIONS

SECTION 1. For the purposes of this Act—

* * * * * * *

(q) The terms "Social Security Act" and "Social Security Act, as amended" shall mean the Social Security Act [as amended in 1954] *as amended in 1956.*

MILITARY SERVICE

SEC. 4 (a). * * *

(n) In addition to the amount authorized to be appropriated in subsection (a) of section 15 of this Act, there is hereby authorized to be

appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1941, [i] *(1)* an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and [(ii)] *(2)* an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, *and prior to January 1, 1957* if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar [month] *month, and (3) an amount found by the Board to be equal to (A) the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under chapter 22 of the Internal Revenue Code of 1954 with respect to the compensation, as defined in such chapter, of all individuals entitled (without regard to subsection (p) (1) of this section) to credit under this Act for military service after December 1956 if each of such individuals, in addition to compensation actually paid, had been paid such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount paid to any individual in any one calendar month, less (B) the amount of the taxes which were paid with respect to such military service under sections 3101 and 3111 of the Internal Revenue Code of 1954.* The additional cost of crediting military service rendered prior to January 1, 1937, shall be deemed to be the difference between the actuarial value of each annuity based in part on military service and the actuarial value of the annuity which would be payable to the same individual without regard to military service. In calculating these actuarial values, (1) whenever the annuity based in part on military service begins to accrue before age 60, the annuity without regard to military service shall be valued on the assumption of deferment to age 60, and whenever the annuity based in part on military service is awarded under subsection 2 (a) of section 2 (a), the annuity without regard to military service shall be valued on the assumption of deferment to age 65; and (2) all such actuarial values shall be calculated as of the date on which the annuity based on military service begins to accrue and shall not thereafter be subject to change. All such actuarial calculations shall be based on the Combined Annuity Table of Mortality and all calculations in this subsection shall take into account interest at the rate of 3 per centum per annum compounded annually. The Railroad Retirement Board, as promptly as practicable after the enactment of this amendment, and thereafter annually, shall submit to the Bureau of the Budget estimates of such military service appropriations to be made to the account, in addition to the annual estimate by the Board, in accordance with subsection (a) of section 15 of this Act, of the appropriation to be made to the account to provide for the payment of annuities, pensions and death benefits not based on military service. The

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estimate made in any year with respect to military service rendered prior to January 1, 1937, shall be based on the cost, as determined in accordance with the above provisions, of annuities awarded or increased on the basis of such military service up to the close of the preceding fiscal year and not previously appropriated for, and shall take into account interest from the date the annuity began to accrue or was increased to the date or dates on which the amount appropriated is to be credited to the Railroad Retirement Account. In making the estimate for the appropriation for military service rendered after December 31, 1936, the Board shall take into account any excess or deficiency in the appropriation or appropriations for such service in any preceding fiscal year or years, with interest thereon, resulting from an overestimate or underestimate of the number of individuals in creditable military service or the months of military service. *In determining pursuant to section 5 (k) (2) for any fiscal year the total amount to be credited from the Railroad Retirement Account to the Old-Age and Survivors Insurance Trust Fund, credit shall be given such Account for the amount of the taxes described in clause (3) (B) of the first sentence of this subsection.*

(o) Section 4 as herein amended shall be effective as of October 8, 1940. No rights shall be deemed to have accrued under section 4 which would not have accrued had this Act amending section 4 been enacted on October 8, 1940.

(p) (1) Military service rendered by an individual after December 1956 shall be creditable under this section only if the number of such individual's years of service is ten or more (including, in such years of service, military service which, but for this subsection, would be creditable under this section).

(2) In any case where an individual has completed ten or more years of service and such years of service include any military service rendered after December 1956, the Board shall as promptly as is practicable (A) notify the Secretary of Health, Education, and Welfare that such military service is creditable under this section and (B) specify the period or periods of the military service rendered after December 1956 which is so creditable.

(q) Notwithstanding the provisions of this section and section 2 (c) (2), military service rendered by an individual after December 1956 shall not be used in determining eligibility for, or computing the amount of, any annuity accruing under section 2 for any month of (1) any benefits are payable for that month under title II of the Social Security Act on the basis of such individual's wages and self-employment income, (2) such military service was included in the computation of such benefits, and (3) the inclusion of such service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable.

(r) The Secretary concerned (as defined in section 102 (9) of the Servicemen's and Veterans' Survivor Benefits Act) shall maintain such records, and furnish the Board upon its request with such information, regarding the months of any individual's military service and the remuneration paid therefor, as may be necessary to enable the Board to carry out its duties under this section and sections 2 and 5.

SECTION 5 OF THE CIVIL SERVICE RETIREMENT ACT OF MAY 29, 1950, AS AMENDED

COMPUTATION OF ACCREDITED SERVICE

SEC. 5. Subject to the provisions of section 9 hereof, the aggregate period of service which forms the basis for calculating the amount of any annuity provided in this Act shall be computed from the date of original employment, whether as a classified or an unclassified officer or employee in the civil service of the United States, or in the service of the District of Columbia, including periods of service at different times and in one or more departments, branches, or independent offices, or the legislative branch of the Government, and periods of service as an officer or employee of the Columbia Institution for the Deaf, and of the Pan American Sanitary Bureau, and also periods of service performed overseas under authority of the United States, and periods of honorable service in the Army, Navy, Marine Corps, or Coast Guard of the United States; in the case of an officer or employee, however, who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of an officer or employee who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or resulting from an explosion of an instrument of war, the period of the military service shall be included: *Provided*, That an officer or employee must have served for a total period of not less than five years, exclusive of such military or naval service before he shall be eligible for annuity under this Act. Nothing in this Act shall be construed as to affect in any manner an officer's or employee's right to retired pay, pension, or compensation in addition to the annuity herein provided.

In computing length of service for the purposes of this Act, all periods of separation from the service, and so much of any leaves of absence as may exceed six months in the aggregate in any calendar year, shall be excluded, except leaves of absence granted employees while performing active military or naval service in the Army, Navy, Marine Corps, or Coast Guard of the United States or while receiving benefits under the United States Employees' Compensation Act, and in the case of substitutes in the Postal Service credit shall be given from date of original appointment as a substitute.

Notwithstanding any other provision of this section, any service (other than service covered by military leave with pay from a civilian position) performed by an individual after December 1956 as a member of a uniformed service on active duty or active duty for training (as those terms are defined in section 102 of the Servicemen's and Veterans' Survivor Benefits Act) shall be excluded in determining the aggregate period of service upon which an annuity payable under this Act to such individual or to his widow or child is to be based, if such individual or widow or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors benefits under section 202 of the Social Security Act based on such individual's wages and self-employment income. If in the case of the individual or widow such service is not excluded under the preceding sentence, but upon attaining retirement age (as defined in section 216 (a) of the Social Security

Act) he or she becomes entitled (or would upon proper application be entitled) to such benefits, the Commission shall redetermine the aggregate period of service upon which such annuity is based, effective as of the first day of the month in which he or she attains such age, so as to exclude such service. The Secretary of Health, Education, and Welfare shall, upon the request of the Commission, inform the Commission whether or not any such individual or widow or child is entitled at any specified time to such benefits.

No officer or employee to whom this Act applies who during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the armed forces of the United States shall be considered as separated from such position for the purposes of this Act by reason of his service with the armed forces of the United States. This paragraph shall not be so construed as to prevent the payment of refunds as provided by section 7 (a) or 12 (b) of this Act.

In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, in the total service shall be eliminated.

Notwithstanding any provision of law to the contrary, title to annuity payable from the civil service retirement and disability fund shall not arise from any separation unless the officer or employee so separated has, within the two-year period immediately preceding such separation, completed at least one year of creditable civilian service during which he was subject to this Act. Any annuity rights based on a separation which (a) terminated service meeting this requirement, or (b) occurred prior to this amendment, shall be restored upon separation from subsequent service which fails to meet said requirement. Any officer or employee who shall have given notice of his desire to come within the purview of this Act pursuant to the last paragraph of section 3 (a) of this Act shall be deemed for the purposes of this requirement to have been subject to the provisions of this Act during any period of service or part thereof ending not later than September 30, 1954, with respect to which there shall have been deposited the amounts specified in section 9.

No credit shall be allowed for any service subsequent to the date of the separation on which title to annuity is based. Any amounts deducted from salary for retirement purposes during such service shall upon separation be refunded to such officer or employee without interest, and shall be subject to redeposit as provided in section 12 (b) (2) of this Act. Any such amount not so refunded to the officer or employee before his death shall be paid in the order of precedence prescribed in section 12 (e).

INTERNAL REVENUE CODE OF 1954

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 121. CROSS REFERENCES TO OTHER ACTS.

(a) For exemption of—

(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (52 Stat. 938; 11 U. S. C. 1079);

(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see the Acts of March 6, 1934 (48 Stat. 466; 5 U. S. C. 118c) and April 25, 1938 (52 Stat. 221; 5 U. S. C. 118c–1);

(3) Amounts credited to the Maritime Administration under section 9 (b) (6) of the Merchant Ship Sales Act of 1946, see section 9 (c) (1) of that Act (60 Stat. 48; 50 U. S. C. App. 1742);

(4) Benefits under World War Adjusted Compensation Act, see section 308 of that Act, as amended (43 Stat. 125; 44 Stat. 827, § 3; 38 U. S. C. 618);

(5) Benefits under World War Veterans' Act, 1924, see section 3 of the Act of August 12, 1935 (49 Stat. 609; 38 U. S. C. 454a);

(6) Dividends and interest derived from certain preferred stock by Reconstruction Finance Corporation, see section 304 of the Act of March 9, 1933, as amended (49 Stat. 1185; 12 U. S. C. 51d);

(7) Earnings of ship contractors deposited in special reserve funds, see section 607 (h) of the Merchant Marine Act, 1936, as amended (52 Stat. 961, § 28; 46 U. S. C. 1177);

(8) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (38 Stat. 258; 12 U. S. C. 531);

(9) Income derived from Ogdensburg bridge across Saint Lawrence River, see section 4 of the Act of June 14, 1933, as amended (54 Stat. 259, § 2);

(10) Income derived from Owensboro bridge across Ohio River and nearby ferries, see section 4 of the Act of August 14, 1937 (50 Stat. 643);

(11) Income derived from Saint Clair River bridge and ferries, see section 4 of the Act of June 25, 1930, as amended (48 Stat. 140, § 1);

(12) Leave compensation payments under section 6 of Armed Forces Leave Act of 1946, see section 7 of that Act (60 Stat. 967; 37 U. S. C. 36);

(13) Mustering-out payments made to or on account of veterans under the Mustering-Out Payment Act of 1944, see section 5 (a) of that Act (58 Stat. 10; 38 U. S. C. 691e);

(14) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935, as amended (50 Stat. 316; 45 U. S. C. 228l);

(15) Railroad unemployment benefits, see section 2 (e) of the Railroad Unemployment Insurance Act, as amended (52 Stat. 1097; 53 Stat. 845, § 9; 45 U. S. C. 352);

(16) Special pensions of persons on Army and Navy medal of honor roll, see section 3 of the Act of April 27, 1916 (39 Stat. 54; 38 U. S. C. 393);

(17) Gain derived from the sale or other disposition of Treasury Bills, issued after June 17, 1930, under the Second Liberty Bond Act, as amended, see Act of June 17, 1930 (C. 512, 46 Stat. 775; 31 U. S. C. 754).

(18) Dependency and indemnity compensation paid to survivors of members of a uniformed service and certain other persons, see section 210 of the Servicemen's and Veterans' Survivor Benefits Act.

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Sec. 3121. Definitions.

Sec. 3122. Federal service.

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SEC. 3121. DEFINITIONS.

(a) * * *

[(i) COMPUTATION OF WAGES IN CERTAIN CASES.—For purposes of this chapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B).]

(i) Computation of Wages in Certain Cases.—

(1) Domestic service.—For purposes of this chapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B).

(2) Service in the uniformed services.—For purposes of this chapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of subsection (m) (1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) (1) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102 (10) of the Servicemen's and Veterans' Survivor Benefits Act.

* * * * * * *

(m) SERVICE IN THE UNIFORMED SERVICES.—For purposes of this chapter—

(1) INCLUSION OF SERVICE.—The term "employment" shall notwithstanding the provisions of subsection (b) of this section, include service performed after December 1956, by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) ACTIVE DUTY.—The term "active duty" means "active duty" as described in section 102 of the Servicemen's and Veterans' Survivor Benefits Act, except that it shall also include "active duty for training" as described in such section.

(3) INACTIVE DUTY TRAINING.—The term "inactive duty training" means "inactive duty training" as described in such section 102.

(n) MEMBER OF A UNIFORMED SERVICE.—For purposes of this

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chapter, the term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 101 (3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty; or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve

SEC. 3122. FEDERAL SERVICE

In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, *including service, performed as a member of a uniformed service, to which the provisions of section 3121 (m) (1) are applicable,* the determination whether an individual has performed service which constitutes employment as defined in section 3121 (b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121 (a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the $4,200 limitation in section 3121 (a) (1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121 (a) (1). *Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121 (m) (1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service.* The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States

subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this subsection shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this subsection the Secretary shall be deemed to be the head of such instrumentality.

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SUBPART C—INFORMATION REGARDING WAGES PAID EMPLOYEES

SEC. 6051. RECEIPTS FOR EMPLOYEES.

(a) REQUIREMENT.—Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) the name of such person,

(2) the name of the employee (and his social security account number if wages as defined in section 3121 (a) have been paid),

(3) the total amount of wages as defined in section 3401 (a),

(4) the total amount deducted and withheld as tax under section 3402,

(5) the total amount of wages as defined in section 3121 (a), and

(6) the total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121 (a), computed in accordance with such section and section 3121 (i) (2).

[(b) SPECIAL RULE AS TO COMPENSATION OF MEMBERS OF ARMED FORCES.—In the case of compensation paid for service as a member of the Armed Forces, the statement shall show, as wages paid during the calendar year, the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401 (a)); such statement to be furnished if any tax was withheld during the calendar year or if any of the compensation paid is includible under chapter 1 in gross income.]

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(b) SPECIAL RULE AS TO COMPENSATION OF MEMBERS OF ARMED FORCES.—In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401 (a)).

NATIONAL SERVICE LIFE INSURANCE ACT OF 1940

* * * * * * *

SEC. 619. On and after the date of enactment of the Insurance Act of 1951, except as otherwise provided in section 12 thereof, section 5 of the Servicemen's Indemnity Act of 1951, and sections [620 and 621] *620, 621, and 623* hereof, no National Service life insurance or United States Government life insurance shall be granted to any person under the provisions of the National Service Life Insurance Act of 1940, as amended, or the World War Veterans' Act, 1924, as amended, nor shall any United States Government life insurance or National Service life insurance, on which the United States is authorized by law to pay the premium, be issued or granted to any person under any provision of law, nor shall the United States pay premiums on insurance issued prior to this enactment under the provisions of Public Law Numbered 289, Seventy-seventh Congress, November 5, 1941, Public Law Numbered 571, Seventy-seventh Congress, June 5, 1942, Public Law Numbered 658, Seventy-seventh Congress, July 8, 1942, Public Law Numbered 698, Seventy-seventh Congress, August 4, 1942, Public Law Numbered 729, Seventy-ninth Congress, August 13, 1946, or any other law for any period subsequent to the end of the second calendar month following the date of this enactment: *Provided*, That the foregoing shall not be construed to prohibit the granting or issuing of National Service life insurance or United States Government life insurance in cases in which acceptable applications accompanied by proper and valid remittances or authorizations for the payment of premiums have, on or before the date of approval of this amendatory Act, been received by the Veterans' Administration, or which have, on or before said date, been placed in the mails properly directed to the Veterans' Administration, or been delivered to an authorized representative of any of the uniformed services.

SEC. 620. Any person who is released from active service under other than dishonorable conditions on or after the date of enactment of the Insurance Act of 1951, and is found by the Administrator to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards established by the Administrator for qualifying under the good health provisions of this Act, as amended, shall, upon application in writing made within one year from the date service connection of such disability is determined by the Veterans' Administration and payment

of premiums as provided in this Act, as amended, be granted insurance by the United States against the death of such person occurring while such insurance is in force: *Provided*, That insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance granted under the provisions of this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized. Except as herein provided, the provisions of this Act other than those contained in section 621 shall be for application to such insurance: *Provided*, That as to insurance issued under this section waiver of premiums pursuant to section 602 (n) shall not be denied on the ground that the service-connected disability became total prior to the effective date of such insurance. [All persons granted indemnity protection under section 2 of the Servicemen's Indemnity Act of 1951 shall be deemed to be in the active service for the purpose of applying for insurance under this section: *Provided*, That as to persons incurring disability under the conditions stated in the last proviso of section 2 of the Servicemen's Indemnity Act of 1951, application for insurance must be filed within one year after the incurrence of such disability.] *Any member of a uniformed service (as that term is defined in section 102 of the Servicemen's and Veterans' Survivor Benefits Act) while on active duty, active duty for training, or inactive duty training (as those terms are defined in such section) shall be deemed to be in the active service for the purpose of applying for insurance under this section; however, as to persons incurring a disability under the conditions provided in section 102 (11) (E) of such Act, application for insurance must be filed under this section within one year after the incurrence of such disability.*

[SEC. 621. (a) Any person entitled to indemnity protection under section 2 of the Servicemen's Indemnity Act of 1951 who is ordered into active service for a period exceeding thirty days, shall, upon application in writing made within one hundred and twenty days after separation from such active service and payment of premiums as hereinafter provided, and without medical examination, be granted insurance by the United States against the death of such person occurring while such insurance is in force. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of national service life insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies

involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance issued hereunder shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited to a revolving fund in the Treasury of the United States and the payments on such term insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized.

(b) The Administrator is authorized to invest in, and the Secretary of the Treasury is authorized to sell and retire, special interest-bearing obligations of the United States for the account of the revolving fund with a maturity date as may be agreed upon by the Administrator and Secretary: *Provided*, That the rate of interest on such obligations shall be fixed by the Secretary of the Treasury at a rate not exceeding the average interest rate on all marketable obligations of the United States Treasury outstanding as of the end of the month preceding the date of issue of this special obligation.]

SEC. 621. Any person who is ordered (whether before, on, or after January 1, 1957) to active duty or active duty for training (as those terms are defined in section 102 of the Servicemen's and Veterans' Survivor Benefits Act) for a period exceeding thirty days, shall, upon application in writing made within one hundred and twenty days after separation from such active duty or active duty for training and payment of premiums as hereinafter provided, and without medical examination, be granted insurance by the United States against the death of such person occurring while such insurance is in force. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of national service life insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of the Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; and (4) insurance issued hereunder shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to the national service life insurance appropriation, and any payment of benefits on such insurance shall be made directly from such appropriation.

SEC. 622. (*a*) After the date of enactment of this section, any person while in active service for a continuous period in excess of thirty days who is insured under national service life insurance or United States Government life insurance shall be entitled, upon written application, to a waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Administrator, becoming due after the first day of the second calendar month following the date of enactment of this section, or the first day of the second calendar month following entry into active service, whichever is the later date, and during the remainder of such continuous active service and 120 days thereafter: *Provided*, That no premium shall be waived under this section for any period before the date of application therefor, except that if the insured is determined, as provided in the Missing Persons Act (56 Stat. 143), as amended, to have been in a status of

missing, missing in action, interned, captured, beleaguered, or besieged, at any time after April 25, 1951, and before April 26, 1952, (A) all premiums due or paid after June 1, 1951, on five-year level premium term insurance shall, during the period of such status and during the remainder of his continuous active service and one hundred and twenty days thereafter, be waived unless the insured requests in writing that this waiver be terminated; and (B) that portion of any permanent insurance premiums due or paid after June 1, 1951, which represents the cost of the pure insurance risk shall, during the period of such status and during the remainder of his continuous active service and one hundred and twenty days thereafter, be waived if the insured applies therefor within one hundred and twenty days after the date of enactment of this clause or the date of his return to military jurisdiction, whichever is later, or if the insured dies or is declared dead while in such missing status or if the insured dies on or prior to the last day upon which he may apply for such waiver under this clause, except that premiums shall not be automatically waived with respect to any policy where the amount of the dividend earned would exceed the amount of the premium waived: *Provided,* That if the term of any five-year level premium term insurance on which premiums have been waived under this section expires while the insured is in active service, such term shall be automatically renewed for an additional five-year period and the premiums due at the then attained age shall be waived as provided above: *Provided further,* That premium waiver benefits under this section render the contract of insurance nonparticipating during the period a premium waiver is in effect: *Provided further,* That whenever benefits under such insurance become payable because of the maturity of such policy of insurance while the insured is in active service or within one hundred and twenty days thereafter, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 2¼ per centum per annum as to insurance issued under sections 620 and 621, at the rate of 3 per centum per annum as to other national service life insurance, and 3½ per centum per annum as to United States Government life insurance. The Administrator is authorized and directed to transfer from time to time from the national service life insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(*b*) *Notwithstanding the provisions of subsection* (*a*), *no application for waiver of premiums may be made after December 31, 1956, except applications therefor filed* (*1*) *pursuant to the first proviso of subsection* (*a*) *or* (*2*) *during a period of war or of any emergency involving hostilities proclaimed by the Congress or the President. Any waiver granted during a period of war or of any emergency involving hostilities proclaimed by the Congress or the President shall be effective only with respect to such period.*

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Sec. 623. (a) Any person who surrendered a policy of National Service life insurance or United States Government life insurance on a permanent plan for its cash value while in the active service on or after April 25, 1951, and prior to January 1, 1957, may, upon application in writing made while in the active service or within one hundred and twenty days after separation from the active service, be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Waiver of premiums and total disability income benefits otherwise authorized under this Act or the World War Veterans' Act, 1924, as amended, shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section in which it is shown to the satisfaction of the Administrator that total disability of the applicant commenced prior to the date of application. The cost of the premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator is authorized and directed to transfer from time to time from the National Service life insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.

(b) Any person who had United States Government life insurance or National Service life insurance on the five-year level premium term plan, the term of which expired while he was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case prior to January 1, 1957, shall, upon application made while in the active service or within one hundred and twenty days after separation from active service, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for his then attained age.

(c) Persons deemed to be in the active service for the purposes of section 5 of the Servicemen's Indemnity Act of 1951 shall be deemed to be in the active service for the purposes of this section.

SECTION 304 OF THE NAVAL RESERVE ACT OF 1938

SEC. 304. [If in time of peace any member of the Naval Reserve is physically injured in the line of duty while performing active military or naval service, or dies as the result of such physical injury, he or his beneficiaries shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in the line of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so disabled: *Provided*, That where a person who is eligible for the benefits prescribed by this section is also eligible for pension under the provisions of the Act of June 23, 1937, entitled "An Act to amend the provisions of the pension laws for peacetime service to include Reserve officers

and members of the enlisted Reserves" (50 Stat. 305), he shall elect which benefit he shall receive, and for the purposes of this section and of said Act all members of the Naval Reserve shall be considered as performing active military or naval service while performing active duty with or without pay, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or other prescribed duty, or while performing authorized travel to or from such duties: *Provided further,* That for the purpose of determining the benefits to which entitled under the provisions of this section Naval Reservists so physically injured while performing the foregoing duties in a non-pay status will be held and considered as receiving the pay and allowances they would have received if in a pay status: *Provided further,* That] (*a*) *In time of peace* Naval Reservists who become ill or contract disease in line of duty during the performance of active duty or training duty with or without pay shall be entitled, at Government expense, to such medical, hospital, or other treatment as is necessary for the appropriate treatment of such illness or disease until the disability resulting from such illness or disease cannot be materially improved by hospitalization or treatment, and to the necessary transportation and subsistence incident to such medical and hospital treatment and return to their homes when discharged therefrom: *Provided further,* That no treatment or hospitalization for such illness or disease shall be continued for more than ten weeks following discharge from active or training duty except on the approved recommendation of a board of medical survey, consisting of one or more medical officers of the Navy or on authorization of the Surgeon General of the Navy based on the certificate of a reputable physician that the illness or disease is a continuation of the illness or disease which was sustained or contracted during the period of active or training duty and that further benefit will result from continued treatment: *Provided further,* That any member of the Naval Reserve performing active duty with or without pay for periods of thirty days or less, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or prescribed duty, or while performing authorized travel to or from such duties, prior to the official termination of World War II, shall be entitled to all the benefits provided by this section to members of the Naval Reserve in time of peace: *And provided further,* That in no case shall sickness or disease be regarded as an injury within the meaning of this section relating to the Naval Reserve.

(*b*) *For the purposes of paragraph I (a) of part II of Veterans Regulation Numbered 1 (a), all members of the Naval Reserve shall be considered as performing active military or naval service when injured while performing active duty with or without pay, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or other prescribed duty, or while performing authorized travel to or from such duties.*

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SECTION 2 OF THE ACT OF AUGUST 12, 1935

SEC. 2. Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or his estate, or any other person having charge and custody in a fiduciary capacity of money paid under the War Risk Insurance Act, as amended the World War Veterans' Act, 1924, as amended, the Emergency Officers' Retirement Act, as amended, the World War Adjusted Com-

pensation Act, as amended, the pension laws in effect prior to March 20, 1933, Public Law Numbered 2, Seventy-third Congress, as amended, Public Law Numbered 484, Seventy-third Congress, *the Servicemen's and Veterans' Survivor Benefits Act*, or under any Act or Acts amendatory of such Acts, for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into his control in any manner whatever in the execution of his trust, or under color of his office or service as such fiduciary, shall be fined not exceeding $2,000 or imprisoned for a term not exceeding five years, or both. Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law, shall be taken to be sufficient evidence, prima facie, of such embezzlement or misappropriation. Section 505 of the World War Veterans' Act, 1924, section 16 of Public Law Numbered 2, Seventy-third Congress, and section 4783 of the Revised Statutes are hereby repealed; but any offense committed before the enactment of this Act may be prosecuted and punishment may be inflicted in accordance with the terms of said sections notwithstanding the repeal of said sections.

WORLD WAR VETERANS' ACT, 1924

SEC. 21. (1) Where any payment of compensation, *dependency and indemnity compensation*, adjusted compensation, pension, emergency officers' retirement pay, or insurance under any Act administered by the Veterans' Administration is to be made to a minor, other than a person in the military or naval forces of the United States, or to a person mentally incompetent, or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian, curator, or conservator by the laws of the State of residence of claimant, or is otherwise legally vested with the care of the claimant, or his estate: *Provided*, That where in the opinion of the Administrator any guardian, curator, conservator, or other person is acting as fiduciary in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the wards, the Administrator is hereby authorized to refuse to make future payments in such cases as he may deem proper: *Provided further*, That prior to receipt of notice by the Veterans' Administration that any such person is under such other legal disability adjudged by some court of competent jurisdiction, payment may be made to such person direct: *Provided further*, That where no guardian, curator, or conservator of the person under a legal disability has been appointed under the laws of the State of residence of the claimant, the Administrator shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

* * * * * * *

(3) All or any part of the compensation, *dependency and indemnity compensation*, pension, emergency officers' retirement pay, or insurance the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to

the person having custody and control of the incompetent or minor beneficiary to be used solely for the benefit of such beneficiary, or in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran.

* * * * * * *

SEC. 201. [That if death results from injury—] *If death occurs prior to January 1, 1957, and results from injury—*

If the deceased leaves a widow or child, or if he leaves a mother or father either or both dependent upon him for support, the monthly compensation shall be the following amounts:

(a) If there is a widow but no child, $30.

(b) If there is a widow and one child, $40, with $6 for each additional child.

(c) If there is no widow, but one child, $20.

(d) If there is no widow, but two children, $30.

(e) If there is no widow, but three children, $40, with $5 for each additional child.

(f) If there is a dependent mother (or dependent father), $20, or both, $30. The amount payable under this subdivision shall not exceed the difference between the total amount payable to the widow and children and the sum of $75: *Provided*, That in case there is both a dependent mother and a dependent father, the amount payable to them shall not be less than $20. Such compensation shall be payable, whether the dependency of the father or mother or both arises before or after the death of the person: *Provided*, That the status of dependency shall be determined as of the first day of each year, and the director is authorized to require a submission of such proof of dependency as he, in his discretion, may deem necessary: *Provided further*, That upon refusal or neglect of the claimant or claimants to supply such proof of dependency in a reasonable time the payment of compensation shall be suspended or discontinued.

PARAGRAPH WHICH BEGINS "ARMY OF THE PHILIPPINES," UNDER HEADING "TRANSFER OF APPROPRIATIONS" IN THE ACT OF FEBRUARY 18, 1946

Army of the Philippines: * * * *Provided*, That service in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the armed forces of the United States pursuant to the military order of the President of the United States dated July 26, 1941, shall not be deemed to be or to have been service in the military or naval forces of the United States or any component thereof for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the military or naval forces of the United States or any component thereof, except benefits under (1) the National Service Life Insurance Act of 1940, as amended, under contracts heretofore entered into, and (2) laws administered by the Veterans' Administration providing for the payment of [pensions] *compensation or dependency and indemnity compensation* on account of service-connected disability or death and (3) the Missing Persons Act (56 Stat. 143) as amended (50 U. S. C. App. 1001 and the following):

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Provided further, That such [pensions] *compensation or dependency and indemnity compensation* shall be paid at the rate of one Philippine peso for each dollar authorized to be paid under the laws providing for such [pensions] *compensation or dependency and indemnity compensation, and where annual income is a factor in entitlement to benefits, the dollar limitations in the laws specifying such annual income shall apply at the rate of one Philippine peso for each dollar: Provided further*, That any payments heretofore made under any such law to or with respect to any member of the military forces of the Government of the Commonwealth of the Philippines who served in the service of the armed forces of the United States shall not be deemed to be invalid by reason of the circumstances that his service was not service in the military or naval forces of the United States or any component thereof within the meaning of such law.

PARAGRAPH BEGINNING "FINANCE SERVICE, ARMY" UNDER TITLE II OF THE ACT OF MAY 27, 1946

TITLE II—MILITARY ESTABLISHMENT

* * * * * * *

Finance Service, Army, 1942–1946, $4,704,700, and subappropriations under this head are hereby decreased as follows: (1) expenses of courts martial, $4,700; (2) apprehension of deserters, $450,000; (3) Finance Service, $4,000,000, and (4) claims for damages due to loss or destruction of property, or personal injury, or death, $250,000: *Provided*, That of the provisions of law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the armed forces of the United States or any component thereof, only those conferring rights, privileges, or benefits upon persons during the time they are on active duty and those listed below shall, after the date of enactment of this Act, be deemed to apply to persons for service in the Philippine Scouts under the provisions of section 14 of the Act approved October 6, 1945 (Public Law 190, Seventy-ninth Congress):

* * * * * * *

[(6) The provisions of laws administered by the Veterans' Administration providing for the payment of pensions on account of service-connected disability or death:]

(6) The provisions of laws administered by the Veterans' Administration for the payment of compensation or dependency and indemnity compensation on account of service-connected disability or death:

Provided further, That payments made under the provisions of any law referred to in clauses (5) and (6) above shall be paid at the rate of one Philippine peso for each dollar authorized by such law: Provided further, That where annual income is a factor in entitlement to benefits, the dollar limitations in the laws specifying such annual income shall apply at the rate of one Philippine peso for each dollar:".

Provided further, That payments made under the provisions of any law referred to in clauses (5) and (6) above shall be paid at the rate of one Philippine peso for each dollar authorized by such law: *And provided further*, That the provisions of the National Service Life

Insurance Act of 1940, as amended, shall apply to persons who serve in the Philippine Scouts under the provisions of section 14 of the Act approved October 6, 1945, only insofar as such provisions relate to contracts of insurance heretofore entered into.

PARAGRAPH V OF PART I OF VETERANS REGULATION NUMBERED 2 (a)

PART I

EFFECTIVE DATES OF AWARDS OF DISABILITY AND DEATH PENSIONS AND PROVISIONS FOR FILING CLAIMS

V. (1) Pension, compensation, *dependency and indemnity compensation*, or retirement pay authorized under laws administered by the Veterans' Administration, to which a person was entitled prior to the date of his death, and not paid during his lifetime, and due and unpaid for a period not to exceed one year prior to death under existing ratings or decisions, or those based on evidence in the file at date of death, shall, upon the death of such person, be paid as hereinafter set forth:

(a) Upon the death of a person receiving an apportioned share of the veteran's pension, compensation, or retirement pay, all or any part of such unpaid amount, to the veteran or to any other dependent or dependents as may be determined by the Administrator of Veterans' Affairs;

(b) Upon the death of a veteran, to the surviving spouse; or if there be no surviving spouse, to the child or children, dependent mother or father in the order named;

(c) Upon the death of a widow or remarried widow, to the veteran's child or children;

(d) Upon the death of a child, to the surviving child or children of the veteran, entitled to death compensation, *dependency and indemnity compensation* or pension;

(e) In all other cases, only so much of the unpaid pension, compensation, *dependency and indemnity compensation*, or retirement pay may be paid as may be necessary to reimburse a person who bore the expense of last sickness and burial: *Provided, however*, That no part of any of the accrued pension, compensation, *dependency and indemnity compensation*, or retirement pay shall be used to reimburse any political subdivision of the United States for expense incurred in the last sickness or burial of such person;

(f) Payment of the benefits authorized by this paragraph will not be made unless claim therefor be received in the Veterans' Administration within one year from the date of death of the beneficiary or one year after date of this enactement, whichever is later, and such claim is perfected by the submission of the necessary evidence within one year from the date of the request therefor by the Veterans' Administration: *Provided, however*, That a claim for compensation, *dependency and indemnity compensation*, or pension by an apportionee, widow, child, or dependent parent shall be deemed to include claim for any accrued benefits.

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(2) A check received by a payee in payment of pension, compensation, *dependency and indemnity compensation*, retirement pay, subsistence allowance, or education and training allowance shall, in the event of the death of the payee on or after the last day of the period covered by said check and unless negotiated by the payee or the duly appointed representative of his estate, be returned to the Veterans' Administration and canceled. The amount represented by any check returned and canceled pursuant to the foregoing or any amount recovered by reason of improper negotiation of any such check shall constitute accrued benefits payable pursuant to the provisions of paragraph V (1): *Provided*, That the one-year limitations of paragraph V (1) shall not apply: *Provided further*, That any amount not so paid shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee, if such estate will not escheat: *And provided further*, That the provisions of this subparagraph in effect prior to the date of approval of this amendment shall be applicable in the case of any payee dying prior to said date.

(3) All Acts and parts of Acts in conflict with or inconsistent with the provisions of this section are hereby repealed.

SECTION 11 OF THE UNIFORMED SERVICES CONTINGENCY OPTION ACT OF 1953

SEC. 11. Annuities payable under this Act shall be in addition to any pensions or other payments to which the beneficiaries may now or hereafter be entitled under other provisions of law, and shall not be considered income (*except as provided in section 205 (g) of the Servicemen's and Veterans' Survivor Benefits Act*) under any law administered by the Veterans' Administration.

PARAGRAPH XIII OF VETERANS REGULATION NUMBERED 10

XIII. Not more than one award of pension, compensation, or emergency officers' or regular retirement pay, shall be made concurrently to any person based on his own service. The receipt of [pension or compensation] *pension, compensation, or dependency and indemnity compensation* by a widow, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of his own service, shall not bar the payment of [pension or compensation] *pension, compensation, or dependency and indemnity compensation* on account of the death or disability of any other person. This paragraph is hereby made applicable to all laws administered by the Veterans' Administration. Section 4715 of the Revised Statutes (U. S. C., title 38, sec. 25) and any other laws in conflict herewith are hereby repealed or modified accordingly.

Pension, compensation, or retirement pay on account of his own service shall not be paid while the person is in receipt of active service pay.

The third proviso of paragraph 2 of section 1 of the Act of March 3, 1891 (U. S. C., title 38, sec. 26); the last proviso of paragraph 2 of section 3 of the Act of January 28, 1915 (U. S. C., title 38, sec. 27), and any other provision of law or veterans regulation contrary hereto is hereby repealed or modified accordingly.

SECTION 15 OF PUBLIC LAW NUMBERED 2, SEVENTY-THIRD CONGRESS

SEC. 15. Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in any wise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any claim for benefits under this title *or title II of the Servicemen's and Veterans' Survivor Benefits Act*, shall forfeit all rights, claims, and benefits under this title *and under title II of the Servicemen's and Veterans' Survivor Benefits Act*, and, in addition to any and all other penalties imposed by law, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for not more than one year, or both.

SECTION 3 OF THE ACT OF OCTOBER 17, 1940

SEC. 3. Where a disabled person, entitled to pension, compensation, or emergency officers' retirement pay under laws or regulations administered by the Veterans' Administration, and his wife are not living together, or where the child or children are not in the custody of the disabled person; or where, in death cases, the child or children are not in the custody of the widow, the amount of the pension, compensation, *dependency and indemnity compensation*, or emergency officers' retirement pay may be apportioned as may be prescribed by the Administrator of Veterans' Affairs.

The Act of March 3, 1899 (30 Stat. 1379, ch. 460; U. S. C., title 38, secs. 45, 46, 47, and 49), with the exception of the last proviso (U. S. C., title 38, sec. 192), paragraph VII of Veterans Regulation Numbered 6 series (U. S. C., title 38, ch. 12, appendix), and all other provisions of law or regulation in conflict with the foregoing are repealed or modified to conform with the provisions of this section.

ACT OF SEPTEMBER 7, 1944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective December 7, 1941, where in the case of a person in the active land or naval service a report of death or a finding of death has been made by the Secretary of War or the Secretary of the Navy, the effective date of an award of death pension or compensation payable under Public Law Numbered 2, Seventy-third Congress, as amended, *or of dependency and indemnity compensation payable under the Servicemen's and Veterans' Survivor Benefits Act*, shall be the day following the date fixed by the Secretary as the date of death in such report or finding: *Provided*, That claim be filed prior to one year after report or finding of death is made: *And provided further*, That death pension or compensation *or dependency and indemnity compensation* under the laws administered by the Veterans' Administration shall not be payable to any dependent for any period for which such dependent has received, or is entitled to receive, an allowance, allotment, or service pay of the deceased.

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FIRST PARAGRAPH OF SECTION 3 OF THE ACT OF AUGUST 16, 1937

SEC. 3. That effective on the first day of the month next following the date of enactment of this Act, the rates of death compensation payable under the provisions of existing laws or veterans' regulations to a surviving widow, child, or children, and/or dependent mother or father now on the rolls or hereafter to be placed on the rolls as a surviving widow, child, or children, and/or dependent mother or father of any World War veteran who died *prior to January 1, 1957*, as the result of injury or disease incurred in or aggravated by active military or naval service in the World War, shall be as follows:

VETERANS REGULATION NUMBERED 1 (a)

PART I

PENSIONS TO VETERANS AND THE DEPENDENTS OF VETERANS FOR DISABILITY OR DEATH RESULTING FROM ACTIVE MILITARY OR NAVAL SERVICE DURING THE SPANISH-AMERICAN WAR, BOXER REBELLION, PHILIPPINE INSURRECTION, AND/OR THE WORLD WAR

* * * * * * *

IV. The surviving widow, child or children, and dependent mother or father of any deceased person who died *prior to January 1, 1957* as the result of injury or disease incurred in or aggravated by active military or naval service as provided in part I, paragraph I, hereof, shall be entitled to receive compensation at the monthly rates specified next below.

Widow but no child, $87; widow with one child, $121 (with $29 for each additional child); no widow but one child, $67; no widow but two children, $94 (equally divided); no widow but three children, $122 (equally divided) (with $23 for each additional child; total amount to be equally divided); dependent mother or father, $75 (or both), $40 each.

* * * * * * *

PART II

PAYMENT OF PENSION FOR DISABILITY OR DEATH INCURRED DURING PEACETIME SERVICE

* * * * * * *

III. The surviving widow, child or children, and dependent mother or father of any deceased person who died *prior to January 1, 1957* as a result of injury or disease incurred in or aggravated by active military or naval service as provided for in part II, paragraph I hereof, shall be entitled to receive compensation at 80 per centum of the rates specified for such dependents in paragraph IV, part I hereof, as now or hereafter amended.

VETERANS REGULATION NO. 2 (a), AS AMENDED

Effective Dates of Awards of Disability and Death Pensions; Provisions for Filing Claims; Review of Presumptive Claims by Special Review Boards

PART I

EFFECTIVE DATES OF AWARDS OF DISABILITY AND DEATH PENSIONS AND PROVISIONS FOR FILING CLAIMS

I. * * *
(a) * * *
(1) * * *
(2) * * *

(3) Where a claim has been finally disallowed, a subsequent claim on the same factual basis, if supported by new and material evidence, shall have the attributes of a new claim, [notwithstanding the provisions of paragraph II, Part II of Veterans Regulation No. 2—Series.] *except that, whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military or naval records of the proper service department under section 207 of the Legislative Reorganization Act of 1946, the effective date of commencement of the benefit so awarded shall be the date on which an application was filed for correction of the military record.*

* * * * * * *

ACT OF DECEMBER 17, 1919

[AN ACT To provide for the payment of six months' pay to the widow, children, or other designated dependent relative of any officer or enlisted man of the Regular Army whose death results from wounds or disease not the result of his own misconduct.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter, immediately upon the official notification of the death from wounds or disease, not the result of his own misconduct, of any officer or enlisted man on the active list of the Regular Army or on the retired list when on active duty, the Quartermaster General of the Army shall cause to be paid to the widow, and if there be no widow to the child or children, and if there be no widow or child to any other dependent relative of such officer or enlisted man previously designated by him, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death. The Secretary of War shall establish regulations requiring each officer and enlisted man having no wife or child to designate the proper dependent relative to whom this amount shall be paid in case of his death. Said amount shall be paid from funds appropriated for the pay of the Army: *Provided,* That nothing in this Act, shall be construed as making the provisions thereof applicable to officers or enlisted men of any forces or troops of the Army of the United States other than those of the Regular Army, and nothing in this Act shall be construed to apply in commissioned grades to any officers except those holding premanent appointments in the Regular Army: *And provided further,* That in the event of the death of any beneficiary before payment to and collection by such beneficiary of the amount authorized herein, such gratuity shall be paid to the next living beneficiary in the order of succession above stated: *And provided further,* That if there be no widow, child, or previously designated dependent relative, the Secretary of War shall cause the amount herein provided to be paid to any grandchild, parent, brother or sister, or grandparent shown to have been dependent upon such officer or enlisted man prior to his death, and the determination of

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such fact by the Secretary of War shall be final and conclusive upon the accounting officers of the Government: *And provided further*, That the last foregoing proviso shall be effective as of August 27, 1940.

[SEC. 2. That nothing in this Act shall be construed as making the provisions of this Act applicable to officers or enlisted men of any forces or troops of the Army of the United States other than those of the Regular Army, and nothing in this Act shall be construed to apply in commissioned grades to any officers except those holding permanent or provisional appointments in the Regular Army.]

SECOND PARAGRAPH UNDER "BUREAU OF SUPPLIES AND ACCOUNTS" IN THE ACT OF JUNE 4, 1920

BUREAU OF SUPPLIES AND ACCOUNTS

* * * * * * *

[That hereafter, immediately upon official notification of the death from wounds or disease, not the result of his or her own misconduct, of any officer, enlisted man, or nurse on the active list or the Regular Navy or Regular Marine Corps, or on the retired list when on active duty, the Paymaster General of the Navy shall cause to be paid to the widow, and if there be no widow to the child or children, and if there be no widow or child, to any other dependent relative of such officer, enlisted man, or nurse previously designated by him or her, an amount equal to six months' pay at the rate received by such officer, enlisted man, or nurse at the date of his or her death. The Secretary of the Navy shall establish regulations requiring each officer and enlisted man or nurse having no wife or child to designate the proper dependent relative to whom this amount shall be paid in case of his or her death. Said amount shall be paid from funds appropriated for the pay of the Navy and pay of the Marine Corps, respectively: *Provided*, That if there be no widow, child, or previously designated dependent relative, the Secretary of the Navy shall cause the amount herein provided to be paid to any grandchild, parent, brother or sister or grandparent shown to have been actually dependent upon such officer, enlisted man, or nurse prior to his or her death and the determination of such fact by the Secretary of the Navy shall be final and conclusive upon the accounting officers of the Government: *Provided*, That nothing in this section or in other existing legislation shall be construed as making the provisions of this section applicable to officers, enlisted men, or nurses of any forces of the Navy of the United States other than those of the Regular Navy and Marine Corps, and nothing in this section shall be construed to apply in commissioned grades to any officers except those holding permanent or probationary appointments in the Regular Navy or Marine Corps: *Provided*, That the provisions of this section shall apply to the officers and enlisted men of the Coast Guard, and the Secretary of the Treasury will cause payment to be made accordingly: *And provided further*, That in the event of the death of any beneficiary before payment to and collection by such beneficiary of the amount authorized herein, such amount shall be paid to the next living beneficiary in the order of succession above stated.]

ACT OF MARCH 8, 1928

[AN ACT To amend an Act entitled "An Act To provide for the payment of six months' pay to the widow, children, or other designated dependent relative of any officer or enlisted man of the Regular Army whose death results from wounds or disease not the result of his own misconduct," approved December 17, 1919, so as to include nurses of the Regular Army.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of Congress approved December 17, 1919 (Forty-first Statutes at Large, page 367), entitled "An Act to provide for the payment of six months' pay to the widow, children, or other designated dependent relative of any officer or enlisted man of the Regular Army whose death results from wounds or disease not the result of his own misconduct," shall apply to nurses of the Regular Army to the same extent and under the same conditions as to officers and enlisted men of the Regular Army.]

ACT OF MAY 12, 1930

[AN ACT Authorizing payment of six months' death gratuity to beneficiaries of transferred members of the Fleet Naval Reserve and Fleet Marine Corps Reserves who die while on active duty.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the Act of June 4, 1920, as amended, which authorized the payment of an amount equal to six months' pay to the beneficiaries of personnel of the regular Navy or Marine Corps, and retired personnel of the Navy and Marine Corps, when on active duty, shall be extended to transferred members of the Fleet Naval Reserve and Fleet Marine Corps Reserve who die while on active duty and not as a result of their own misconduct, and transferred members of the Fleet Naval Reserve and Fleet Marine Corps Reserve shall be required to file with the Navy Department the name of beneficiary other than wife or child to which payment of the amount equal to six months' pay shall be made in the event of their death while on active duty and not the result of their own misconduct.]

ACT OF JULY 15, 1939

[AN ACT To extend the benefits of the United States Employees' Compensation Act to members of the Officers' Reserve Corps and of the Enlisted Reserve Corps of the Army who are physically injured in line of duty while performing active duty or engaged in authorized training, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if in time of peace any member of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army is physically injured in line of duty (1) while on active duty, or (2) when engaged in authorized travel to and from such duty, or (3) when engaged in authorized training without pay, or dies as the result of such physical injury, he or his beneficiary shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in

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line of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so injured: *Provided*, That the benefits shall accrue to any such member or his beneficiary, whether the disability or death is the result of sickness or disease contracted in line of duty while on active duty when such sickness or disease is proximately caused by service on active duty: *Provided further*, That employees' compensation under this Act shall not be paid concurrently with active-duty pay or pension based upon military service, and in the event a person becomes eligible for the benefits of the United States Employees' Compensation Act and is also eligible for, or is in receipt of, a pension based upon military service, he shall elect which benefit to receive: *Provided further*, That authorized training without pay is defined as inactive-status training under written authorization by competent military authority covering a specific training assignment and prescribing a time limit: *Provided further*, That for the purpose of determining the benefits to which entitled under the provisions of this Act members of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army physically injured when engaged in authorized training without pay will be held and considered as receiving the pay and allowances they would have received if in a pay status: *Provided further*, That Reserve Officers entitled to the benefits of the last proviso of section 5 of the Act of April 3, 1939 (Public, Numbered 18, Seventy-sixth Congress), shall not be entitled to the benefits of this Act: *And provided further*, That nothing herein shall be construed to authorize compensation benefits for any period prior to the approval of this Act.

[SEC. 2. As used in this Act, the term "in time of peace" shall include that period after September 8, 1945 (the date of formal surrender by Japan), which is prior to the first day on which the United States is, by the action of the Congress or the President, or both, no longer engaged in any war in which the United States is engaged on the date of enactment of this section.]

ACT OF JULY 18, 1940

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That where in time of peace any member of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army was physically injured in line of duty (1) while on active duty, or (2) while engaged in authorized travel to and from such duty, or (3) while engaged in authorized training without pay, or dies or has died as the result of such physical injury, where such injury or death occurred between the dates of February 28, 1925, and July 15, 1939, both inclusive, when such injury or death results from an accident involving a military hazard such as flying in military aircraft, participation in military drills, target practice and tactical exercises, and in injury cases where such injury has resulted in permanent partial or permanent total disability, he or his beneficiary shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in line of duty or who die as a result thereof, and the United States Em-

ployees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so injured: *Provided*, That the benefits shall accrue to any such member, or his beneficiary, whether the disability or death is the result of sickness or disease contracted in line of duty while on active duty when such sickness or disease is proximately caused by service on active duty: *Provided further*, That employees' compensation under this Act shall not be paid concurrently with active-duty pay or pension based upon military service, and in the event a person become eligible for the benefits of the United States Employees' Compensation Act and is also eligible for, or is in receipt of, a pension based upon military service, he shall elect which benefit to receive: *Provided further*, That authorized training without pay is defined as inactive-status training under written authorization by competent military authority covering a specific training assignment and prescribing a time limit: *Provided further*, That for the purpose of determining benefits to which entitled under the provisions of this Act members of the Officers' Reserve Corps or of the Enlisted Reserve Corps of the Army physically injured when engaged in authorized training without pay will be held and considered as receiving the pay and allowances they would have received if in a pay status: *And provided further*, That nothing herein shall be construed to authorize compensation benefits which may have accrued for any period prior to the approval of this Act, but eligibility for compensation benefits shall be determined as of the date of approval of this Act and any benefits payable shall date only from such approval and the eight-year period of limitation in section 10–G of the Federal Employees' Compensation Act of September 7, 1916, shall be computed for purposes of this Act, from the date of approval thereof.

[Where injury or death has been sustained by any member of the Officers' Reserve Corps or Enlisted Reserve Corps while performing authorized training without pay upon inactive status it shall be presumed that such training was being performed under written authorization of competent military authority covering a specific training assignment and prescribing a time limit and thus subject to the provision of this Act unless a duly appointed Examining Board, appointed at the time of said accident, has found and reported to the contrary.

[All claims for disability or death benefits allowed under the provisions of this Act shall be made within one year from its approval by the President.]

SECTION 489 OF TITLE 14, UNITED STATES CODE

[§ 489. Death gratuity

[The provisions of law relating to the payment of an additional amount of pay to the widow, children, or other dependent relative of an officer or enlisted person of the Regular Navy or Marine Corps upon official notification of the death of such officer or enlisted man shall apply in the same manner, to the same extent, and under the same conditions to officers and enlisted men of the Regular Coast Guard. The authority and duty vested in the Secretary of the Navy by such provisions of law shall be exercised by the Secretary of the Treasury in the application and administration of such laws to the Coast Guard when it is in the Treasury Department.]

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SERVICEMEN'S INDEMNITY ACT OF 1951

SEC. 1. This part may be cited as the "Servicemen's Indemnity Act of 1951".

SEC. 2. Except as hereinafter provided, [on and after June 27, 1950] any person in the active service of the Army, Navy, Air Force, Marine Corps, Coast Guard, or the Reserve components thereof, including the National Guard when called or ordered to active duty or active training duty for fourteen days or more; members of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, and the Air Force Reserve Officers' Training Corps, when called or ordered to active training duty for fourteen days or more while on such active training duty; cadets and midshipmen at the United States Military, Naval, and Coast Guard Academies; commissioned officers of the Public Health Service while entitled to full military benefits as provided in section 212 (a) of the Act of July 1, 1944 (58 Stat. 689), as amended (42 U. S. C. 213); and commissioned officers of the Coast and Geodetic Survey while assigned to duty [during a period of war or an emergency as proclaimed by the President or the Congress] on projects for the Army, Navy, or Air Force in areas outside the continental United States or in Alaska or in coastal areas of the United States determined by the Department of Defense to be of immediate military hazard, shall be automatically insured by the United States, without cost to such person, [against death in such service in the principal amount of $10,000] *against death in such service, occurring during the period of any war or of any emergency involving hostilities proclaimed by the Congress or the President, in the principal amount of $10,000*: [*Provided*, That any person called to extended active service for a period exceeding thirty days shall continue to be so protected for a period of one hundred and twenty days after separation or release from such active service:] *Provided further*, That persons in the Reserve components, including the National Guard, while engaged in aerial flights in Government owned or leased aircraft for any period, with or without pay, as an incident to their military or naval training, shall be deemed to be in the active service for the purposes of this Act: *And provided further*, That for the purposes of this part, any person, who, [on or after June 27, 1950] was or shall be provisionally accepted and directed or ordered to report to a place for final acceptance or for entry upon active duty in the military or naval service and who died or shall die as the result of disability incurred while en route to such place and within one hundred and twenty days after the incurrence of such disability, or any registrant under *the Universal Military Training and Service Act, or any other Act of Congress which provides for the involuntary induction of persons into the Armed Forces, who* [the Selective Service Act of 1948, as amended, who on or after June 27, 1950] in response to an order to report for induction into the Armed Forces and who, after reporting to a local draft board, died or dies as the result of disability incurred while en route from such draft board to a designated induction station and within one hundred and twenty days after the incurrence of such disability shall be deemed to have died in active service.

SEC. 3. Upon certification by the Secretary of the service department concerned of the death of any person deemed to have been automatically insured under this part, the Administrator of Veterans'

Affairs shall cause the indemnity to be paid as provided in section 4 only to the surviving spouse, child or children (including a stepchild if designated as beneficiary by the insured or if a member of the insured's household, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a parent by adoption, or person who stood in loco parentis to the insured prior to attainment of twenty-one years of age and for a period of not less than one year prior to entry into the active service, or a stepparent who does not meet the loco parentis requirement if designated as beneficiary), brother, or sister of the insured, including those of the half-blood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term "parent" shall include only the mother and father who last bore that relationship to the insured.

Any installments of an indemnity not paid to a beneficiary during such beneficiary's lifetime shall be paid to the named contingent beneficiary, if any; otherwise, to the beneficiary or beneficiaries within the permitted class next entitled to priority: *Provided*, That no payment shall be made to the estate of any deceased person.

SEC. 4. The indemnity shall be payable in equal monthly installments of one hundred and twenty in number with interest at the rate of 2¼ per centum per annum.

[SEC. 5. The automatic indemnity coverage authorized by section 2 shall apply to any person in the active service of the named Armed Forces who, upon death in such active service, or within one hundred and twenty days after separation or release from such active service as prescribed in section 2, is insured against such death under a contract of national service life insurance or United States Government life insurance, but only with respect to a principal amount of indemnity equal to the difference between the amount of insurance in force at the time of death and $10,000. Any person in active service, who is insured under a permanent plan of national service life insurance or United States Government life insurance, may elect to surrender such contract for its cash value. In any such case the person, upon application in writing made within one hundred and twenty days after separation from active service, may be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Any person in the active service having United States Government life insurance or national service life insurance on the five-year level premium term plan, the term of which expires while such person is in active service after the date of this enactment, shall, upon application made within one hundred and twenty days after separation from service, payment of premiums and evidence of

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good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for his then attained age. Waiver of premiums and total disability income benefits otherwise authorized under the National Service Life Insurance Act of 1940, as amended, or the World War Veterans' Act, 1924, as amended, shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section in which it is shown to the satisfaction of the Administrator that total disability of the applicant commenced prior to the date of his application. The cost of premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator is authorized and directed to transfer from time to time from the national service life insurance appropriation to the national service life insurance fund and from the military and naval insurance appropriation to the United States Government life insurance fund such sums as may be necessary to reimburse the funds for such costs.]

SEC. 5. The automatic indemnity coverage authorized by section 2 shall apply to any person in the active service of the named Armed Forces who, upon death in such active service, is insured against such death under a contract of national service life insurance or United States Government life insurance, but only with respect to a principal amount of indemnity equal to the difference between the amount of insurance in force at the time of death and $10,000.

SEC. 6. The Administrator of Veterans' Affairs is authorized to promulgate such rules and regulations, not inconsistent with the provisions of this part, as are necessary or appropriate to carry out its purposes.

SEC. 7. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this part, to be known as the servicemen's indemnity appropriation, for the payment of liabilities under this part.

SEC. 8. Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections refuses to perform services in the land or naval forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to an indemnity under this Act: *Provided*, That restoration to active duty after commission of any such offense shall restore all rights to an indemnity under this Act. No indemnity shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States.

SEC. 9. The provisions of Public Law Numbered 262, Seventy-fourth Congress, approved August 12, 1935 (49 Stat. 607), as amended, titles II and III of Public Law Numbered 844, Seventy-fourth Congress, approved June 29, 1936 (49 Stat. 2031), as amended, and section 15 of Public Law Numbered 2, Seventy-third Congress, March 20, 1933, insofar as they are applicable, shall apply to the provisions of this part: *Provided*, That assignments of all or any part of the beneficiary's interest may be made by a beneficiary to any other person or persons within the permitted class of beneficiaries, as specified in section 3, if all other persons having contingent rights of equal or

greater priority to those of the assignee join in the assignment: *Provided further*, That such assignment shall not affect any payments made prior to its receipt by the Veterans' Administration.

TABLE OF SECTIONS AT THE BEGINNING OF CHAPTER 13, TITLE 14, UNITED STATES CODE

CHAPTER 13.—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

Sec.
461. Pay and allowances.
* * * * * * *
[489. Death gratuity.]
* * * * * * *
509. Prisoners; allowances to; transportation.

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84TH CONGRESS
2d Session

SENATE

REPORT
No. 2381

OBSCENE AND PORNOGRAPHIC LITERATURE AND JUVENILE DELINQUENCY

INTERIM REPORT

OF THE

COMMITTEE ON THE JUDICIARY

MADE BY ITS

SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

PURSUANT TO

S. Res. 62, and S. Res. 173

(84th Congress)

RELATIVE TO THE INVESTIGATION OF JUVENILE DELINQUENCY IN THE UNITED STATES

JUNE 28, 1956.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
79610 WASHINGTON : 1956

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84TH CONGRESS } SENATE { REPORT
2d Session } { No. 2381

OBSCENE AND PORNOGRAPHIC LITERATURE AND JUVENILE DELINQUENCY

RELATIVE TO THE INVESTIGATION OF JUVENILE DELINQUENCY IN THE UNITED STATES

JUNE 28, 1956.—Ordered to be printed

Mr. KEFAUVER, from the Committee on the Judiciary, submitted the following

INTERIM REPORT

[Pursuant to S. Res. 62, and S. Res. 173, 84th Cong.]

I. INTRODUCTION

The Subcommittee To Investigate Juvenile Delinquency, pursuant to authorization in Senate Resolution 62, 84th Congress, 1st session, has been making a "full and complete study of juvenile delinquency in the United States," including its "extent and character" and "its causes and contributing factors."

As a part of this study and investigation the interstate traffic in pornographic materials and its availability and effect on juveniles and youth was a matter of great concern to the subcommittee.

The subcommittee's investigation of crime and horror comic books conducted earlier and duly reported to the Senate can be said to have paved the way for our intensive inquiry into the origin and circulation of pornography, and its deleterious impact on the thinking and habits of juveniles. The severity of the problem manifested itself when we found many of the comic books themselves pointed toward the portrayal of the suggestive, the lewd, and the obscene.

Surveys of stores and newsstands in all parts of the Nation established that almost without exception the comic books were displayed indiscriminately in the midst of magazines notorious for their emphasis on sex, nude torsos and exaggerated accentuation of some physical characteristics of male and female alike.

We have a strong feeling that this step-by-step development of adolescent curiosity is more design than coincidence. It unquestion-

ably is the conditioning process that makes youngsters the ripened subjects for the insidious material with which our investigation was concerned.

Subject of the subcommittee's inquiry

A joint committee of the New York State Legislature that investigated the comic book situation recently found that—

> the reading of crime comics stimulates sadistic and masochistic attitudes and interferes with the normal development of sexual habits in children and produces abnormal sexual tendencies in adolescents.

Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation, has said:

> The publication and distribution of salacious material is a peculiarly vicious evil; the destruction of moral character caused by it among young people cannot be overestimated. The circulation of periodicals containing such material plays an important part in the development of crime among the youth of our country.

Figures compiled by the Bureau show that during 1953 a sex criminal was arrested somewhere in the United States every 6.7 minutes, day and night; since 1937, rape cases have increased 110 percent. Boys of 18 and 19 years of age are committing more rapes than males in any other age group. The percentage of rapists under 20 has doubled since 1940. Venereal disease rates in some localities have risen 25 percent and it is to be stressed that these are only the known cases.

The subcommittee finds that there is a relationship between this deplorable statistical summary and a mushrooming growth in the production, distribution and sale of pornographic materials.

Lest there be some misconception or misunderstanding about the subject matter with which this report must deal, this subcommittee emphasizes that we are not discussing questionable comic books or salacious magazines. Admittedly some of these are replete with pornographic connotations, but what this subcommittee has sought to do is to come to grips with the outright pornography that corrupts, defiles and destroys.

Pornography is not new. It can serve no useful purpose to attempt to review its history. Because it is synonymous with depravity, there are those who would shrug it off as an expected evil that can, perhaps, be tolerated if not condoned. This report will prove the error of this thinking.

Many well-meaning persons expressed apprehension when it became known that we proposed to turn the searchlight of public inquiry toward the pernicious evil of pornography. There was a time when a similar attitude opposed acknowledgment of the existence of venereal disease and the problem of narcotics. Experience and the test of time have demonstrated that problems must be squarely faced before they can be solved. Evil is not cured by ignoring it. Nothing constructive follows emulation of the ostrich with its head in the sand. It is the healthy wrath of aroused public opinion that is destructive of evil.

There are large segments of the population without any real awareness of the nature of pornography and unconscious of the fact that a great deal of it is pointed directly toward the impressionable juvenile mind. The incalculable damage to the moral and psychological fabric

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of our society through its effect on youngsters is obvious when exposed in all of its aspects.

Under the cloak of this unawareness, loathsome and lecherous purveyors of pornography have been operating in a great many instances virtually with a free hand. The magnitude of this business is appalling. As the subcommittee has moved about the country we have continually raised the sights in endeavoring to estimate the yearly volume in terms of dollars.

It accordingly is not an idle conclusion when we estimate now that pornography up to this time has been a $500-million-a-year racket. In the face of testimony of gross receipts of more than a million dollars a year by just one participant in the racket, of seizures of $50,000 quantities in one city and $100,000 in other cities, and evidence that even an ordinary street peddler was making $300 weekly, the subcommittee believes that the half-billion-dollar figure is fairly accurate.

This subcommittee feels it is important to emphasize that the investigation of pornography was only one phase of its general inquiry into the overall problem of juvenile delinquency. We have given attention to such germane subjects as youth employment, the matter of interstate adoptions or the so-called black market in adoptions, juvenile courts, delinquency among Indian children, effect of motion pictures and television on young minds, education, religion and other related subjects. Only a relatively small portion of our staff and time could be diverted to the investigation of pornography and its relation to juvenile delinquency.

Assistance in the investigation

The success of any investigation is measured by the degree of cooperation that is received from agencies and persons called upon for assistance. The subcommittee desires therefore, to express publicly its appreciation to (1) those members of the subcommittee's professional staff who handled a difficult and disagreeable assignment with admirable determination and efficiency; (2) representatives of various Federal agencies, police chiefs, and sheriffs throughout the country and members of their departments who gave invaluable help in supplying information, investigative facilities and manpower on many occasions; (3) prosecutors and members of their staffs at both the Federal and State levels who provided similar assistance; and (4) a host of others in private capacities who contributed time and effort to furthering the subcommittee's inquiry. There are so many entitled to our tribute that we cannot begin to list them but we want all to know that we are deeply grateful.

Almost without exception we have found the personnel of law-enforcement agencies holding universal contempt for the persons who engage in this traffic.

One of the serious defects hampering effective warfare against pornographers according to those who have assisted the subcommittee from investigative and prosecution agencies has been lack of liaison and the proper dissemination of information about the activities of those engaged in the traffic. The creation of a National Advisory Crime Commission to perform this important function of circulating intelligence information about crime and criminals would greatly assist in curbing the traffic in pornography.

II. SCOPE OF THE SUBCOMMITTEE'S INQUIRY

This report already has mentioned that limitations of staff and time and the requirement for careful scrutiny of other areas of juvenile delinquency did not permit the comprehensive investigation of the evils of pornography that the subcommittee would have undertaken but for these limitations.

Nevertheless, the efforts devoted to probing cause and effect in this particular direction were sufficiently comprehensive to confirm the diagnosis of extreme and alarming contamination of the juvenile mind. Once again we think it is important to reiterate that the type of material with which the subcommittee concerned itself is not, as many persons might mistakenly believe, a heterogeneous collection of offcolor jokes. The quantity and quality of the material beggars description; it is wanton, depraved, nauseating, despicable, demoralizing, destructive and capable of poisoning any mind at any age.

Almost every conceivable device that can be used to pander to the base, illicit and immoral tendencies and emotions of the human has been utilized as an instrument of pornography. Erotic books and pamphlets, phonograph records, motion-picture film in black and white, color and sound, ordinary still photographs, colored slides, playing cards, paper match covers, wood carvings, plaster casts, bathmats and a host of other items of a character too delicate to identify further are merchandised by licentious and conscienceless individuals who play upon normal and abnormal sexual passions for profit.

The problem of pornography is not new; in fact, it is centuries old. But we declare with conviction, based on irrefutable evidence, that the enormous volume of this reprehensible traffic has reached such staggering proportions that we are aghast when we contemplate the consequences of it.

During the chairmanship of the subcommittee of former Senator Robert C. Hendrickson in the 83d Congress, the subcommittee began a series of preliminary surveys in many parts of the United States. Conferences were held with police officials and samples of pornographic material were collected and cataloged. A cross section of the flood of unsolicited complaints received by the subcommittee from irate parents, teachers, ministers, businessmen, and juveniles was actively investigated. Test letters were sent by staff members replying to advertisements inserted in publications read extensively by children as well as those in the "pinup" and "girlie" classification of publications. These letters were written in a youthful scrawl on stationery from Eastern High School, Washington, D. C.

Case reports by the hundred in the files of police departments were analyzed. In those areas where large seizures had been made by alert police agencies the contents of such seizures were meticulously reviewed for evidence of its origin.

A 15-point questionnaire was prepared and dispatched to a cross-section sampling of police chiefs so as to obtain the best possible geographical coverage of the entire Nation. The splendid cooperation accorded by these police officials produced a wealth of information susceptible to accurate evaluation.

This is what the questionnaire asked:

1. Please list the names (with aliases), and addresses of all persons arrested and/or convicted in the past several years in your jurisdiction, in connection

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with the production, distribution, or possession with intent to sell of pornographic or obscene literature of any kind, together with the sentences that they received, or the final disposition of their cases.

2. If possible, please furnish the subcommittee with criminal records or other information of the above, as well as the approximate evaluation that you have placed on the seizure. If the confiscation was a large one would it be possible for you to submit a photograph of it to be used as an exhibit?

3. Please furnish names and addresses of accomplices of the above, even though not arrested or charged with violation of the obscene literature statutes and ordinances.

4. Please give the names and addresses of owners of buildings where pornographic literature was produced, stored or sold.

5. Please furnish names and addresses of persons, other than above, known to be engaged in the manufacture or sale of pornographic and obscene literature.

6. In your opinion, is traffic in pornographic material in your jurisdiction extensive, medium or light?

7. What percentage of this traffic would you estimate reaches minors?

8. In your opinion, are penalties rendered for these offenses sufficient to act as a deterrent to committing these offenses?

9. If readily available, please furnish the Subcommittee with a brief extract of laws and ordinances governing these offenses.

10. In your opinion, are State and local laws adequate to cope with the problem?

11. Please furnish the names and addresses of all persons who, by legal or other means, have intervened in having confiscated material returned.

12. Do you have samples of pornographic materials? If so, will you send them to the Subcommittee by mail, or will you make them available to subcommittee staff for inspection?

13. Do you have evidence or reason to believe that persons dealing in pornographic materials are connected with a ring or other criminal activity, such as narcotics, white slavery, gambling, etc.?

14. Please furnish copies of any lists of customers that you may have confiscated from persons dealing in such materials, as well as any leads in your State or elsewhere.

15. Please furnish names and addresses of all persons arrested in the past several years in your jurisdiction on charges of white slavery.

This diligent pursuit of interpretable facts by the subcommittee bore surprising fruit. From this concentrated quest for pertinent information emerged the pattern of operations in this traffic. Principal purveyors of pornography were identified, obvious sources of material were pinpointed, methods of distribution were defined.

The pornographer of today is modern. Like a legitimate businessman, those who deal in pornography have taken full advantage of all of the modern concepts of industrialization. They have kept pace with changes and technical developments, particularly in the field of mass communications. Investigators who find identical items in seizures made in as distantly separated places as Illinois and Rhode Island, California and Connecticut, Missouri and Massachusetts, or Louisiana and New York will certify readily that there is a distribution through wide areas of the country.

There was one unusual aspect to the interviews conducted by staff investigators and the replies received to the questionnaire and that was the disposition to treat pornography as an insignificant problem of inconsequential proportions. This is said not with the idea of being critical of the cooperating agencies, because we had the advantage of holding the focal point toward which all of this vitally necessary information was being channeled.

Thus conditions most apparent to us were unknown to a great many of those who helped funnel into our possession the ingredients that formed the composite picture of this entire racket. It is in this atmosphere of lack of awareness, heightened by too many instances

of apathy at the prosecutive and judicial levels, that the pornographer has been permitted to thrive.

One striking example is illustrative of this type of situation. The chief of police of a city in the South confessed apologetically that his department had "heard rumors" about a man who "passed through" every couple of months but had never been able to learn his identity or that of the persons he may have contacted. He did not know that in a city less than 50 miles away this same man had been apprehended and sentenced to 4 years in prison. Furthermore, neither he nor the arresting police in the neighboring city learned until sometime later that this man's activities took him into nearly 200 communities in a score of States east of the Mississippi.

A National Advisory Crime Commission, which has been sponsored by the chairman of this subcommittee each year for the past 4 years, which would have as one of its principal objectives the dissemination and coordination of information, would have precluded the possibility of the occurrence of such unfortunate incidents.

The test letters sent out by subcommittee investigators reaped a bountiful harvest of circulars offering "real nudes unretouched in any way" or "snappy photographs, the kind men like" and plenty of other equally suggestive merchandise. The response to these test letters completely and effectively gives the lie to those in this sordid business who profaned the oath they took when called to testify before the subcommittee by blandly asserting that they have never done business with minors and take every precaution to insure they do not. Even as this report is written the authors of these test letters are receiving advertising matter from a variety of sources that were never solicited, showing beyond doubt that their names are on mailing lists assiduously circulated in the hope of luring dollars from the "Eastern High School" curious.

The circulars even go beyond the offer of merchandise. One highly-geared advertising "pitch" makes the promise that—

> with your first order we will include our confidential wholesale price list which will convince you that you can make real money by merely showing your friends our pictures.

Post office inspectors, police chiefs, sheriffs, district attorneys, Federal enforcement agencies and this subcommittee have been deluged with letters of complaint from irate parents, demanding action to stem not only the invitation to buy but the inducement to sell.

What isn't known to most people is the disturbing and shocking fact that not only are minors being lured into the role of "pushers" of pornography among other juveniles but that there are all too many instances where they have been prevailed upon to pose for movies and still photographs of the most degrading and perverted character. Thus we have confirmation of the cycle of age-old moral philosophy that what may be ignored at first, is ultimately condoned and finally embraced.

Parenthetically, the subcommittee is moved here to interject the observation that the application of this philosophy has no age limit. It is a matter of serious concern that our adult society is exhibiting manifestations of deteriorated moral principles, contriving meanwhile for compromise of those that remain unviolated. This subcommittee has realized in its studies that this is the unhealthy legacy inherited

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by the generation whose delinquency is now deplored. The callous disregard of the moral law by an older generation visits its sins upon the generations that follow.

This conclusion of the subcommittee is not an idle one. Inspector Roy Blick of the Washington, D. C., police testified before us that he and his men raided a dance studio on one occasion and found 197 boys from fraternities of three high schools on hand to view a pornographic motion picture. The father of one of the boys made arrangements for its showing with the counselors of the fraternities also in attendance.

Inspector Blick also testified about another case where the raiding officers found a father photographing his wife and three children, all were nude. The youngest child was about four.

Within a month after our New York hearings, residents of Long Island were horrified by the discovery that a wealthy inventor, Ivan Jerome, had been corrupting the morals of young girls, one of whom was only 11, by photographing them in his penthouse apartment. Jerome had lured them to the apartment with money and costume jewelry and induced them to commit acts of perversion while cameras recorded the indecencies. The activities of Jerome were revealed when an incendiary fire destroyed the apartment. The efforts of Jerome, dubbed by the newspapers as "The Monster of Massapequa," to retrieve cans of film from the charred ruins led to his undoing.

The Jerome case was not an isolated one by any means, for it had its counterpart in Philadelphia, in Oklahoma City, on the west coast, and in other parts of the country. The only difference was that in some cases the pictures were made with commercialization as the motive; in others the purpose was the satisfaction of distorted sex concepts.

Schoolyards and the streets in the immediate vicinity of schools are lurking places for smut peddlers. Some operate on foot, some from parked cars and even inoffensive candy shops and stores close to schools are known to have engaged in under-the-counter trafficking in pornographic items. Conditions like these breed the involvement of children in the racket itself.

Here will be found the most insidious appeal for the interest of children, the cartoon books containing the recognizable characters from the comic strips that the children have been reading in the daily newspapers. But these characters are now cast in roles never conceived by their creators. The twisted mind of the plagiarists have vested these characters with new personalities and placed them in new settings. The result is far from funny and it isn't pretty. The child may not understand what is meant by sex perversion. The filthy cartoons make its meaning plain as day.

In Pittsburgh, Pa., last July the police made a $100,000 seizure of pornography. Included were approximately 15,000 of these cartoon books, known in police jargon as "2 by 4's."

Another favorite piece of pornographic merchandise aimed at the impressionable juvenile mind is the deck of playing cards upon the faces of which appear pictures showing 52 different kinds of perversion. There is no fixed sales price, but the usual price, according to testimony given the subcommittee by veteran police officials, is $5 to $8 for those with black and white pictures and $10 to $12 for colored ones. Of course, in some areas where the output is considerable, lower prices may prevail.

The subcommittee has encountered evidence that juveniles have invested in these decks of cards and have invoked the profit motive for themselves by selling single cards to schoolmates for whatever they can get in the 25-cent to 50-cent range. Thus a deck obtained furtively for $5 from a smut peddler is productive of a gross return that can run anywhere from $13 to $26. The appeal to a money-hungry youngster is obvious.

There is a peculiar resemblance to narcotics addiction in exposure of juveniles to pornography. There is the same pattern of progression. Once initiated into a knowledge of the unnatural, the impressionable young mind with the insatiable curiosity characteristic of those reaching for maturity inevitably hunt for something stronger, something with more "jolt," something imparting a greater thrill.

The dealer in pornography is acutely aware of this progressive facet; his array of material to feed this growing hunger is carefully geared to the successive stages. Like the peddler of narcotics his only interest is to insure that his customers are "hooked"; he knows that once they are "hooked" they will continue to pay and pay.

There is one difference, however, between narcotics addiction and the corroding effects of pornography that deserves attention here. The injection of heroin into the veins of an addict stops with the addict, but the contaminative consequences of one piece of pornography in the hands of just one minor are incapable of measurement.

There is ample justification for our apprehension. In New York for instance, we were informed by those who chart the course of juvenile misbehavior that after World War II there was a decidedly discernible trend to the use of marihuana. This was followed by progression to the use of heroin but, in the last 3 or 4 years, sexual excesses and perversion have moved to the fore as the complex evil with which the authorities must cope. Lamentably there are all too many sex orgies involving teen-agers and this trend to perversion coincides definitely with the tremendous output of pornography.

Psychiatrists who have testified before the subcommittee and responsible officials in large centers of population elsewhere in the country confirm that this is a finding not peculiar to New York alone.

Another aspect deeply disturbing to the subcommittee is the increasing concentration on pornography expressive of fetishism, sadism, masochism. Torture, maiming, and killing have been the tragic consequences.

III. IMPACT OF PORNOGRAPHY ON YOUTH

The most insidious effect of present-day pornographic materials is the portrayal of abnormal sexual behavior as being normal. Perversion for profit thus wrecks the chances of the impressionable adolescent to achieve a normal, healthy relationship upon reaching maturity.

Testimony of Dr. George W. Henry

The Congress and the American people should ponder over the testimony received by the subcommittee from Dr. George W. Henry, professor of clinical psychiatry at Cornell University College of Medicine. A diplomate in psychiatry, Dr. Henry is a fellow of the American Medical Association, a fellow of the American Psychiatric Association and has had a distinguished career in his field.

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The pertinent parts of his testimony before the subcommittee at its New York hearings follow:

Mr. GAUGHAN. Doctor, could you tell us, is there a growing tendency today toward sex deviations?

Dr. HENRY. That is my impression.

Mr. GAUGHAN. From your experience can you tell us what age group is most susceptible to deviation?

Dr. HENRY. Adolescence.

Mr. GAUGHAN. Can such deviation from the normal manifest itself in a number of forms?

Dr. HENRY. Yes.

Mr. GAUGHAN. Are people born with such perversions bred in them, or must they be taught and educated along this line?

Dr. HENRY. I could scarcely imagine that anyone was born with these tendencies. There may be certain potentialities that can be trained, but I don't believe anybody would arrive at these various deviations unless they had some training.

Mr. GAUGHAN. Doctor, would you tell us what is a fetish?

Dr. HENRY. A fetish is usually some object, material, or substance which becomes the chief source of sexual stimulus for a particular person.

Mr. GAUGHAN. In your medical textbook entitled "All the Sexes" you state in your chapter on fetishes that high-heel fetish, and women's-lingerie fetish are two of the more common types of fetishes.

Dr. HENRY. That is correct, but any kind of clothing, any part of the body might become attractive or might become a fetish for a particular person.

Mr. GAUGHAN. Used as a substitute for the normal sex?

Dr. HENRY. That is right. It can become and does become as exciting to them as any other part of the body, or the body, to what is called a normal person.

Mr. GAUGHAN. Doctor, is there such a thing as leather and rubber fetish?

Dr. HENRY. Yes; that is true.

Mr. GAUGHAN. Is there also a fetish known as bondage in which people are trussed up?

Chairman KEFAUVER. What do you mean by leather and rubber fetish?

Dr. HENRY. There are various devices that are manufactured for enclosing parts of the body, and that are used for the purpose of exciting people sexually.

Mr. GAUGHAN. In other words, certain leather types of shoes and boots and so on can be used as a substitute for a sexual outlet by persons who are trained along that line, who so enjoy it?

Dr. HENRY. That is correct. Almost anything can become a fetish, even a violin.

Mr. GAUGHAN. Is there a type of sexual deviation that is known as bondage where a person is trussed up with ropes and chains?

Dr. HENRY. Yes; that is fairly common.

Chairman KEFAUVER. You say bondage is fairly common?

Dr. HENRY. Fairly common in this particular group, that is the group of sexual deviates.

Chairman KEFAUVER. Tell us more about that bondage being fairly common.

Dr. HENRY. Among those who are familiar with this variety of sexual deviation, it is a matter of common knowledge to them. It is not common knowledge to the general public.

Chairman KEFAUVER. You mean they like to see someone who is bound up?

Dr. HENRY. Yes; they do.

Chairman KEFAUVER. Pictures of them?

Dr. HENRY. Some of them do.

Mr. GAUGHAN. And some of them might be bound up by themselves?

Dr. HENRY. Yes.

Mr. GAUGHAN. Is the act of spanking a part of the flagellation technique?

Dr. HENRY. Yes; one of the milder forms.

Chairman KEFAUVER. You mean whipping?

Dr. HENRY. Yes; whipping in any form, even to the extent of drawing blood.

Chairman KEFAUVER. You say it is a minor form. What are the more violent forms?

Dr. HENRY. They use actual whips, straps, sticks.

Mr. GAUGHAN. Sometimes they use the hands, sometimes whips, sometimes chains, and hairbrushes?

Dr. HENRY. Yes.

Mr. GAUGHAN. Is there a sex deviation wherein two females are able to find an erotic satisfaction by inflicting pain and injury upon each other?

Dr. HENRY. Yes.

Mr. GAUGHAN. What form of deviation does that come under?

Dr. HENRY. Sadism and masochism.

Mr. GAUGHAN. Dr. Henry, I am going to come down by you, because my questions are of such a form that I have to ask you to identify a number of pictures that I am going to produce as an exhibit here today. I call your attention to page 3 of Cartoons and Model Parade to pictures entitled, "Chris Strips for Bed." Then there is the fact that she wears—it specifically mentions she wears 6-inch high heel, patent leather shoes. It mentions how she goes through this sensuous art of disrobing, and along with that I direct your attention to page 6 of this same publication, and on page 6 we find Lounging Around in Lingerie, in which the man who offers this publication says he will sell this particular movie for $8, and he notes particularly the fact that the models wear 6-inch high heel, patent-leather shoes.

Doctor, I want you to note the various other pictures with this 6-inch shoe business being graphically brought out by the photographers and the author of this publication, and I ask you, Doctor, is it a fair statement to say that these are pictures—these pictures are put therein for the purpose of exciting people to take part in the fetish that is known as the high-heel fetish? Is that a fair statement?

Dr. HENRY. That could be true. Such heels are sexually exciting, but they are also part of a picture, any part of which or all of which is sexually exciting.

Mr. GAUGHAN. That is the only purpose of this booklet, in your expert opinion, Doctor?

Dr. HENRY. That is correct.

Mr. GAUGHAN. Doctor, I ask you, could children be sexually perverted by looking at, by studying, and by dwelling upon photos of this nature and the contents of this book?

Dr. HENRY. Yes.

Chairman KEFAUVER. Doctor, is it a very unwholesome influence, this sort of thing?

Dr. HENRY. It is.

Chairman KEFAUVER. In your opinion the increase in sex crimes, deviations that we are having—does that increase result in part at least from the reading and looking at magazines and pictures of this kind by children?

Dr. HENRY. I would think that was an important factor in the increase.

Mr. GAUGHAN. Doctor, would violence and murder be a natural outgrowth of such perversions that we have discussed here this morning with you?

Dr. HENRY. It might be.

Chairman KEFAUVER. You mean this bondage and whipping, and things of that sort?

Dr. HENRY. Yes.

Mr. GAUGHAN. Doctor, I show you some clippings mounted on a board from the Miami Daily News, dated Tuesday, August 31, 1954; the contents of these articles, Doctor, specifically note the fact that one 17-year-old boy, Kenneth Grimm, was found hanging in an inverted position from a stick or board suspended between the forks of two trees, and trussed up in a fashion whereby his legs and arms were tied behind him, and a rope is thrown around his neck so that he strangles himself. He strangles himself by the position in which he has been forced. Doctor, I ask you is it your opinion, from perusing this article, from looking at the picture, would you say that this is the end result of a sex crime? Does this impress you as the type of thing that can happen as the result of bondage—this fetish we have been discussing this morning.

Dr. HENRY. Yes; it is an end result, a kind of result. I think I should clarify this sex problem a little bit so that innocent people would not be involved in it.

For instance, there is a tendency to associate such acts of violence with a homosexual—what is called the homosexual. The facts are that the homosexual is no more prone to violence than the heterosexual or the normal. If we were to divide humans roughly into four groups, we would call them heterosexual, bisexual, homosexual, and Narcissistic, and the groups that we have been talking about this morning belong primarily to the Narcissistic, more specially to people whom we call exhibitionists, or peeping individuals. These publications cater to people who are psychosexually immature, emotionally immature, and who get their major satisfaction out of looking at such displays. It has little to do with other fields of psychopathology that is commonly associated with such acts.

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The only other thing that occurs to me is that I firmly believe that the majority of people are so constituted and live in environments such that they will grow up to be reasonably normal in their sexual adjustment.

There is, however, quite a large proportion of the population who are susceptible to training, training such as may be obtained from these publications, and whether or not they arrive at a point of violence is perhaps an academic matter in view of the other problem that no one can tell ahead of time who is going to arrive at that goal once they have been exposed to these publications.

Furthermore, there are all degrees of sadism and masochism which enter into human relations and which seldom get into the newspapers.

Chairman KEFAUVER. Dr. Henry, murder—even crimes involving theft, beatings, most of all the crimes, can, to some extent, result from maladjustments which children might get from the kind of literature and pictures and what not they see?

Dr. HENRY. That is correct. A good many of the sexually maladjusted are not primarily interested in sex relations, but in the thrill or the danger which is associated with the sexual act.

Chairman KEFAUVER. In other words, these pictures, these bondage pictures and things of that sort are important in this matter, too?

Dr. HENRY. They are important.

Chairman KEFAUVER. Will one of you show this Gargoyle publication 478 Madison Avenue, to Dr. Henry? Is that typical of the bondage pictures you were talking about?

Dr. HENRY. Yes. There is more of the whipping in this. You can see the whip in several of the pictures. Whipping means just what it says. They actually use these on people, sometimes until they bleed. There are individuals who are so impelled to abuse others that they will keep on until they kill them.

Chairman KEFAUVER. Until they kill them?

Dr. HENRY. Yes.

Chairman KEFAUVER. I think there are places in that picture that will show bondage pictures.

Dr. HENRY. Yes.

Chairman KEFAUVER. If that was sent through the mail, I am sure the inspectors would stop that.

Dr. HENRY. Sometimes the greatest thrill is experienced at the time that somebody is dying.

Chairman KEFAUVER. By the person dying or the person causing the death?

Dr. HENRY. The person causing the death. There are also people who get their greatest thrill by being severely beaten.

Chairman KEFAUVER. You mean being the recipients of the beating?

Dr. HENRY. Yes.

Chairman KEFAUVER. Doctor, you saw how these pictures that Mr. Roth had—you heard him express his expert opinion based on many years in the business. What did you think of that? What do you think of his philosophy?

Dr. HENRY. I don't agree with it at all.

Chairman KEFAUVER. You think this stuff he is sending out, these pamphlets that you saw here, are a bad influence and degrading even to grownups, let alone young people?

Dr. HENRY. Yes. I think there is a confusion between children and adolescents in a good deal of the testimony. When they use the word "children" they often mean "adolescents," and everyone knows that the adolescent is most sexually excitable, and has the least legitimate opportunity to find an outlet for that sexual excitability. As a result of that they find every conceivable means of finding an outlet, including what was shown this morning.

It is an error also to assume that if you sell something to an adult that it doesn't get to an adolescent. A great many of these so-called adults are really still adolescents, and feel most at home with actual adolescents.

More than that, some of them are primarily interested in introducing adolescents into abnormal practices.

Chairman KEFAUVER. So that his idea that the effect of this kind of stuff on adults might be stimulating and what not, but it would not have any effect upon adolescents is just without medical foundation?

Dr. HENRY. I would think that it would be just the opposite. It would be more exciting to the adolescent.

Mr. GAUGHAN. Doctor, I might ask you, as the father of five children, and as many parents around the Nation have wondered from time to time, if we have read about the senseless killing by teen-agers during the past few years, would you say it is a fair statement that many of these killings are the direct result of some

sort of erotic stimuli that has been given to these teen-agers, these children, which result in their taking part in the gang warfare and death and violence and torture, and so on?

Dr. HENRY. Yes; I would expect that entered into a large proportion of such killings.

Mr. GAUGHAN. A large proportion?

Dr. HENRY. Yes. That is related to the fundamental principle that a person who engages in such killings is an insecure person, and a great deal of his insecurity comes from the fact that he is poorly adjusted, usually as a male. In order to bolster up his ego, he has to do something bold to give him the feeling that he is a man. If, in addition, he has been trained to sadistic ways of bolstering his ego, so much the worse.[1]

Testimony of Dr. Benjamin Karpman

Another eminent figure in the field of psychiatry, Dr. Benjamin Karpman, chief psychotherapist at St. Elizabeths Hospital in Washington, D. C., told the subcommittee that—

you can take a perfectly healthy boy or girl and by exposing them to abnormalities you can virtually crystallize and settle their habits for the rest of their lives. If they are not exposed to that they may develop to perfectly healthy, normal citizens. It is here that objections come upon pornographic literature.

Dr. Karpman's statement continues:

Mr. BOBO. You mean a perfectly normal, healthy boy or girl, 12 or 13 years of age, if exposed to pornographic literature, could thereby develop into a homosexual?

Dr. KARPMAN. That is right; because from our point of view—we are not normally, what we call heterosexual. We don't belong to one sex. All of us are bisexual. Every man has some element of a woman in him, because he has inherited that from his mother. In other words, every man has, from our point of view, a feminine component. Every woman has, from our point of view, a masculine component, which she has inherited from her father.

The proportion of this varies, but usually the masculine component in a man is large, let us say, 85 percent, whereas the feminine component in a man is very small, let us say, 10 to 15 percent; but because adolescence is a very unstable stage of development, if you expose a boy to abnormal behavior it will play upon the underdeveloped feminine component, and he might become a homosexual.

Mr. BOBO. Do you think the reading of pornographic literature in addition to maybe changing his sex habits in life might also give him more of a tendency to become a juvenile delinquent?

Dr. KARPMAN. I believe there is a definite relationship between juvenile delinquency and sex life. We started from this point of view. Our life from our point of view is guided by our instincts. We have two main instincts—the self-preservative instinct, and the race-preservative instinct, commonly known as the hunger and sex instincts.

Instincts that spread by tension—you and I will never know that we are hungry unless there would develop in the stomach some sort of tension which sends a message to the brain and tells us that we are hungry. In other words, we know of our sex life and of our personal life, of hunger life, only through the medium of tension developing.

Tension is tension. When a young boy and girl, for instance, you take a young boy who is reaching adolescence, and he is hungry for information on sex, but for some reason or other doesn't get it at home because the mother and father are too tired to talk to them about four-letter words and other nasty things.

Where is the boy going to find it? He cannot find it at home. He doesn't always find it in school. Very few schools have developed to the point of giving lectures on the subjects of the facts of life. He looks for it in the gutter, and there he comes across pornographic material and literature, and that draws him into all sorts of gang life, which later discharges itself as juvenile delinquency.

In other words, here is a boy who is under a great deal of sexual tension. The home environment will not permit him to discharge the sexual tension in normal sex relations. Society doesn't permit that in a premarital way. Tension is tension. It must break through. If he cannot discharge it in a sexual way, he discharges it in a criminal antisocial way.

[1] Henry, Dr. George W., in testimony before the Subcommittee To Investigate Juvenile Delinquency. Obscene and Pornographic Materials, United States Senate, Washington, D. C., on May 31, 1955, pp. 210-217.

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Mr. BOBO. Thereby causing him to engage in gang activities?

Dr. KARPMAN. That is right. There is a very direct relationship between juvenile delinquency, sex life, and pornographic literature.

Mr. BOBO. Have you noticed coming to your attention more children that have had contact with pornographic literature?

Dr. KARPMAN. I wouldn't say that I have come in contact with more. I am not able to give you any statistics. I know that I have been testifying very often for the Post Office Department. They come in contact with a large amount of pornographic literature. This has been a problem of the Post Office Department all the time.

For instance, there are a group of people that we call perverts, who specialize in spanking. They derive satisfaction, sexual satisfaction out of spanking others and being spanked.

You sometimes get pictures of people, naked, nude, one after the other, each one in front spanking the other one. They even published a journal called Bareback, and that is how the Post Office Department got it, because they were sending obscene literature through the mail. They arrested them. That doesn't make any difference. You can arrest today all the people of this type that you can. Tomorrow morning you have another group, because the conditions which produce them remain constant.

Mr. BOBO. In these spanking photos—and I presume that you would include the chain photos—the one where the women wear the long highheel boots?

Dr. KARPMAN. That is right.

Mr. BOBO. Do you think it is possible that this particular type of literature, even though it doesn't show a complete nude body, might also have an effect upon juveniles and their sex life?

Dr. KARPMAN. Yes; indeed. What they do not see, the imagination supplies the rest. In other words, you only have to expose, we will say, one bare leg of a woman, and her thigh, and then the imagination will supply the rest.

Mr. BOBO. So that the fact that under your definition, these bondage and spanking and whipping photos are pornographic in nature?

Dr. KARPMAN. Absolutely; they are pornographic in the sense that they stimulate the mind to abnormal sexual practices.

What you speak of is what we psychiatrists know as sadism, masochism, fetishism, and so on. These are abnormal sexual practices—men who are sadists and masochists usually get together. One is a sadist and one is a masochist. The couple need not be only men or women. Sometimes it is a man and a woman.

Oddly enough, it is the woman who is the sadist, and it is a big strong husky man that is the masochist. The woman gets a hold of a whip, and it is amazing how they can use a whip on a big strong husky man, and he takes all she can give him, and out of that both derive a certain amount of what we call physical satisfaction.

These things are sometimes enlarged in people, in children brought up at the age of 3, 4, 5 years old. If pornographic literature would not come along it would remain within certain confines—not normal, because only psychoanalysis can cure that.

The pornographic literature casts it broadly and widely, and attracts people who would otherwise remain entirely innocent.

Mr. BOBO. Pornographic literature, as I understand you, doesn't affect only teen-agers, but can go down to the age of 5 or 6?

Dr. KARPMAN. Yes, absolutely; if it falls on proper soil. You take, for instance, a person who had developed normally. If you take that kind of a person and expose them to literature when they were 5 years old, he wouldn't know what it means. He may have been brought up in a very good home which was probably severely puritanical, but he went to church and controlled himself, and so on. That boy is not likely to be influenced by the exposure; but you take a boy who has developed from early childhood, from our point of view, developed from early childhood sadistic, masochistic, fetishtic, or cannibalistic tendencies, and there you have something from which he can go.[2]

Pornography reaches juveniles

Lewd, indecent, and obscene pornographic material does reach juveniles. The subcommittee, at this point, because of inability to get accurate statistics from enforcement agencies is unable to give exact figures as to the amount of pronographic material that reaches

[2] Karpman, Dr. Benjamin, see statement, op. cit., pp. 80-85.

youth, but it is in a position to state that large quantities are bought and read by those in the 12- to 18-year age group and even larger quantities get into the hands of those 18 to 21 years of age.

Some of the replies received to the questionnaire of the subcommittee indicate to some extent this traffic among youth.

Rochester, N. Y.: "Violator was charged with possessing indecent pictures. Officer found subject showing indecent pictures and books to a group of 13-year-old girls in front of No. 14 school on University Avenue. Subject pleaded guilty."

Columbus, Ohio: "Subject now in Ohio State Penitentiary. Used juvenile girls for models to lewd photographs."

Trenton, N. J.: "Subject sold indecent and obscene literature and pictures to juveniles. Convicted of violation of the Crimes Act."

Las Cruces, N. Mex.: "Approximately 75 percent of the pornographic material reaches minors."

Des Moines, Iowa: "Some of these pornographic books were found in one of our schools by a teacher who chanced to notice a group of boys looking at them. They notified police and more of the booklets were found in subject's store hidden in the back counter. The boy who obtained the books had worked at the store after school hours.

"On a complaint from a father who claimed a photograph dropped from his daughter's schoolbook the subject was arrested and found to have 600 pornographic pictures and 7 reels of film depicting lewdness at its worst. The subject stated that the salesman (of this material) was driving a car with New York plates."

Yakima, Wash.: "In December 1954 it came to the attention of the police department that a number of juveniles in one of the junior high schools had in their possession some lewd pictures. Subject, an amateur photographer, stated he borrowed the pictures and made a set of negatives. He admitted printing over 400 of these pictures."

South Hadley, Mass.: "Pornographic material of lewd playing cards and pictures were strewn about a pond that is frequented by children in the neighborhood. The ages of the children were of schoolage, 8 to 10 years. All pupils of Woodlawn School."

Minneapolis, Minn.: "I gather that the use of pornographic movies is extensive among university and high-school students in Minneapolis. Matteson, in the State bureau of apprehension, says that he doubts whether any college student goes through 4 years without being exposed at least once to a pornographic movie. Recent graduates of the University of Minnesota confirmed this."

Paducah, Ky.: "About 75 percent of the pornographic material is getting to minors."

Manchester, N. H.: "Subject, aged 18, was arrested for giving obscene books and for showing obscene books."

Raleigh, N. C.: "Subject was convicted of selling sexy comic books to high-school students and was given 12 months sentence."

Harrisonburg, Va.: "Recently we received a complaint of a subject selling these materials and found the subject had been selling this material to high-school students."

Wilmington, N. C.: "During the entire investigation of obscene literature we received information that this literature has filtrated throughout the schools of the county and that it could be purchased by anyone who applied for it from the Piner or the Carolina Camera Shops."

West Allis, Wis.: "Subject had 22 obscene films in his possession. He was showing them in his basement and 12 juveniles came to our attention who had viewed these films.

"Boy 12 years old picked up with a telescope that had a picture of a nude woman in it. This boy took this from the bureau of his older brother who had purchased it from an unknown man in a tavern.

"Boy 17, with 2 obscene pictures, origin unknown."

St. Louis, Mo.: "The pornographic material has been known to find its way into schools as was true in the case of three individuals who were charged with sale and distribution of pornographic literature."

Eddyville, Ky.: "Pornographic literature is being sold to minors at numerous gasoline filling stations in this area."

Burlington, N. J.: "Pornographic literature is being sold at quite a number of the newsstands. Nine minors have committed illegal sexual acts as a result of reading this material."

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Philadelphia, Pa.: "Pornographic literature has stirred up male youth who consequently go out and commit 'gang rape.' This mass rape is an integral part of the juvenile gang warfare system. Its frequency is underestimated and that is because many of the victims are afraid to report these crimes to the authorities."

Boulder, Colo.: "Would suppose that most of it (pornography) is among schoolchildren."

Buffalo, N. Y.: Our last referral to the youth bureau of the Buffalo Police Department was in connection with the distribution of pornographic literature and obscene comics among schoolchildren in the local area."

Boston, Mass.: "Subject was found guilty of rape of a 16-year-old girl and investigation of premises revealed 50 photos of pornographic nature. There are other instances of individuals being charged with sex offenses and exhibiting obscene material to 9- and 10-year-old girls."

Cleveland, Ohio: "Nude sequence photographs found in subject's house with girls in photos obviously juveniles."

Baton Rouge, La.: "Examination of case records tend to show, as does past experience of our department, that the nature of this pornographic literature is reaching students and children of junior- and high-school-age brackets."

Denver, Colo.: "Subject charged with attempting to molest two teen-age girls. Was found to have six small pulp magazines of pornographic nature in the glove compartment of his car."

These are but a few of the replies that we have received from chiefs of police and sheriffs throughout the United States on the subject of the distribution of pornographic material which reaches juveniles and subjects them to degradation and contamination. As shown by the replies it is not only a problem of the large urban centers but reaches into the small rural community as well.

The nature of the pornographic motion-picture film that was being shown to the 197 boys in Washington, D. C., was such that upon its being reviewed by over 40 civic leaders all were outraged that such material was available for anyone. Several of those who viewed this film became so nauseated at the scenes it contained that they were unable to review the entire film.

Mr. William Deerson, dean of discipline, Haaren High School, New York, N. Y., appeared before the subcommittee. The Haaren High School is a boys school with approximately 2,000 students.

Mr. Deerson is also employed by the Jewish Settlement House, 128 Stanton Street, New York City, and in his capacity here and at the high school he comes into very intimate contact with a large number of boys ages 11 to 18 years.

Mr. Deerson told the subcommittee:

Recently I noticed that quite a few boys have been passing these booklets (pornographic) around among the other boys. Some have been selling them. It seems that some boys purchase a booklet, and after they have seen it and passed it around they may sell it to another boy for profit. The booklets are the very severe filth type of pornographic material, unnatural perverted type of sex acts.

Usually the postal-card type is sold for about 25 cents. The Maggie and Jiggs type may be sold anywhere from 25 cents to half a dollar. The card-playing type where a deck of cards is purchased, let us say, for $5 on the outside, they are resold for anywhere from 15 to 25 cents per card.

The boys have told me they purchase it from men around New York City. They purchase it on the Bowery. Some have said they purchased it on 42d Street, Sixth Avenue, the lower East Side, and especially among the men who sell old hats, razor blades, and so forth.

There is definitely a connection between the juvenile delinquency rate and the reading of this material. I feel that the material when read excites the young men, it stimulates him and may lead to some overt act.[3]

Father Daniel Egan, a Franciscan priest, Graymoor, Garrison, N. Y. also appeared before the subcommittee during its investigation

[3] Deerson, William, see testimony, op. cit., pp. 76-80.

into the traffic in pornography. In the past 10 years he has traveled throughout the country specializing in high school and teen-age missions.

In speaking of pornography, Father Egan said:

I do not mean the magazines that are very lurid, filthy, and sexy that can be bought on newstands. I rather mean the type of literature * * * the specific kind that shows in a degrading way, and in unnatural ways, the act of sex relations.

Father Egan further discussed the impact of pornography in the following excerpts from his testimony:

Father EGAN. We speak a great deal at the present moment about the blackboard jungles. Emotional problems in high school. And yet there are some people who would like to tell us that there is nothing wrong with stealing. The God-given pleasures of sex, outside of marriage. Still, when a kid does do it, he does experience—and this is something God is responsible for—they do experience a guilt complex. This guilt complex, I am certain, is reflected in the emotional problems they reveal in the classroom. These pornographic materials are bound to produce in the lives of the teen-agers acts of masturbation, acts of self-abuse, acts of unnatural things between fellows and girls, and this is shown up, then, in the sense of guilt, and that reveals itself in emotional problems in the classrooms.

The teachers in the public high schools, God bless them, they are doing a wonderful job with the problems that they have, but they are treating a symptom over here, and the real cause is over here.

Mr. BOBO. May I ask you this: When you are speaking of a symptom over here and a cause over there, to what are you referring?

Father EGAN. They are treating the emotional symptoms of filthy language on the walls and on the toilets, and they are treating the emotional problems of disbehavior, or fighting and gang instincts in the schools, but this may be a mere symptom of something deeper away over here, that when a boy or a girl is possessed with a sense of guilt, that they are committing acts of impurity alone or with others, it is revealed then in these other things, and they are creating this thing, but the real cause is over here.

This deluge of filth is sweeping over the country and is having its effect in other things. I am convinced of this.

No normal teen-ager today could look at this unless he has ice water in his veins. If he has real blood he couldn't possibly look at this without showing some effect in other ways.

Mr. BOBO. You think of the normal teen-ager only the emotional disturbed teen-ager; do you think it would be possible by looking at some of the material which has come into your hands that he might thereby be stirred up to go out and commit a sex crime against a fellow playmate, boy or girl?

Father EGAN. I am certain of it. A boy looks at this, shows it to his girl friend. They go to a show together, a movie, and things are bound to happen.

Mr. BOBO. Do you think that among the sexually uneducated children who are inquisitive, as most of them are about sex, that this might tend to make him think this is normal sex, pictures of which we have here, if he had no other outside instruction from either the home, school, or church?

Father EGAN. I agree with you very much, that if he is sexually uneducated, if he has not been taught to see the sanctity and the dignity and the holiness of sex from God's point of view, if they see this early in life, they do think it is a normal thing.

Chairman KEFAUVER. Father Egan, you have now been 10 years in all these cities doing this wonderful work, giving youth guidances. This filth that is flooding the country now, all over the country, is it on the increase among children?

Father EGAN. The mere fact that I have encountered in the last 3 months what I have not encountered before would prove to me that it is definitely on the increase in many various forms. * * *

I don't think that the average person is aware of this one fact, that whereas if a man were to sell 1 teen-ager 1 marihuana, that marihuana will affect this 1 teen-ager. We can see the effects of that in his life. But 1 piece of this pornographic material allowed to circulate through 1 classroom or 1 school can do harm that we can't estimate. And I speak under correction, but I understand there is some suggestion of making it life imprisonment for anyone who is importing heroin or marihuana as in vast numbers. Why couldn't you make it even more severe, 7 years, for a man who is importing and producing this, he is corrupting, he is

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rotting at the very roots of our Nation. Communism will never defeat America; it is something within the Nation that is going to rot and corrupt it; and there should be a more stringent law than just 2 or 3 years, or 7 years.

Chairman KEFAUVER. You think that this pornographic literature is having a substantial effect upon that degrading process?

Father EGAN. Positively, Senator.

Chairman KEFAUVER. I was amazed, Father Egan, one day you came to my office, and I will always remember. You said you had just been around on the streets of Washington and you picked up a whole bundle of this, not art magazines but pure filth, in the Nation's Capital, and you brought it in and gave it to me.

Father EGAN. Yes.

Chairman KEFAUVER. That is the kind of thing we are finding in increasing amounts all over the country.

Father EGAN. Yes.

Mr. BOBO. Father Egan, does this make generally the entire social ground, I mean from the low social, economic group up to the very highest? Where would you say it was most prevalent?

Father EGAN. I don't work very often with the higher social strata.

Mr. BOBO. So your working is within the great middle group where this stuff is striking?

Father EGAN. I talked to numerous girls who have posed for these pictures.

Chairman KEFAUVER. Teen-agers, kids?

Father EGAN. Kids who would be playing to and from school. They might be down at the corner having a coke, or they might be at a show, and someone will glide up to them and convince them that they are photogenic, or they would look pretty in a picture, and give them $5 or $10, and from that 1 negative they will produce many others.[4]

IV. LAWS ON PORNOGRAPHIC LITERATURE AND MATERIAL

Title 18 of the United States Code deals with the traffic in pornographic material and the pertinent sections of this title are recited.

SEC. 1461. MAILING OBSCENE OR CRIME-INCITING MATTER

Every obscene, lewd, lascivious, or filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character; and

Every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and

Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and

Every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and

Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable, or knowingly takes the same from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

[4] Egan, Father Daniel, see statement, op. cit., pp. 70–75.

The term "indecent," as used in this section includes matter of a character tending to incite arson, murder, or assassination. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 768, eff. Sept. 1, 1948.)

SEC. 1462. IMPORTATION OR TRANSPORTATION OF OBSCENE LITERATURE

Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly deposits with any express company or other common carrier, for carriage in interstate or foreign commerce any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

Whoever knowingly takes from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful——

Shall be fined not more than $5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 768, eff. Sept. 1, 1948.)

SEC. 1463. MAILING INDECENT MATTER ON WRAPPERS OR ENVELOPES

All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, and all postal cards upon which, any delineations, epithets, terms, or language of an indecent, lewd, lascivious, or obscene character are written or printed or otherwise impressed or apparent, are nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postmaster General shall prescribe.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined not more than $5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 769, eff. Sept. 1, 1948.)

SEC. 1464. BROADCASTING OBSCENE LANGUAGE

Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than $10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 769, eff. Sept 1, 1948.)

The subcommittee held hearings on Senate bill 600 during the early part of the year and reported favorably this bill that closed one of the most gaping loopholes in the Federal laws dealing with the interstate transportation of pornography. This bill was passed and became Public Law 95, 84th Congress, 1st session, and was signed by the President on June 28, 1955. It is here recited.

PUBLIC LAW 95—84TH CONGRESS

CHAPTER 190—1ST SESSION

S. 600

AN ACT To amend title 18 of the United States Code, relating to the mailing and transportation of obscene matter

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 1461 of title 18 of the United States Code is amended to read as follows:

"Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance; and—".

SEC. 2. The fifth paragraph of section 1461 of title 18, United States Code, reading "Every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and", is hereby repealed.

SEC. 3. Chapter 71 of title 18 of the United States Code is amended by inserting, immediately following section 1464 of such chapter, a new section, to be designated as section 1465, and to read as follows:

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"§ 1465. Transportation of obscene matters for sale or distribution.

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"The transportation as aforesaid of two or more copies of any publication or two or more of any article of the character described above, or a combined total of five such publications and articles, shall create a presumption that such publications or articles are intended for sale or distribution, but such presumption shall be rebuttable.

"When any person is convicted of a violation of this Act, the court in its judgment of conviction may, in addition to the penalty prescribed order the confiscation and disposal of such items described herein which were found in the possession or under the immediate control of such person at the time of his arrest."

SEC. 4. The analysis of chapter 71 of title 18 of the United States Code is amended by inserting, immediately after and underneath item 1464, as contained in such analysis, the following new item:

"1465. Transportation of obscene matters for sale or distribution."

Approved June 28, 1955.

Title 39 United States Code Annotated § 259a

§ 259a. EXCLUSION FROM MAILS OF OBSCENE, LEWD, ETC., ARTICLES, MATTERS, DEVICES, THINGS, OR SUBSTANCES.

Upon evidence satisfactory to the Postmaster General that any person, firm, corporation, company, partnership, or association is obtaining, or attempting to obtain, remittances of money or property of any kind through the mails for any obscene, lewd, lascivious, indecent, filthy, or vile article, matter, thing, device or substance, or is depositing or is causing to be deposited in the United States mails information as to where, how, or from whom the same may be obtained, the Postmaster General may—

(a) instruct postmasters at any post office at which registered letters or any other letters or mail matter arrive directed to any such person, firm, corporation, company, partnership, or association, or to the agent or representative of such person, firm, corporation, company, partnership, or association, to return all such mail matter to the postmaster at the office at which it was originally mailed, with the word "Unlawful" plainly written or stamped upon the outside thereof, and all such mail matter so returned to such postmasters shall be by them returned to the senders thereof, under such regulations as the Postmaster General may prescribe; and

(b) forbid the payment by any postmaster to any such person, firm, corporation, company, partnership, or association, or to the agent or representative of such person, firm, corporation, company, partnership, or association, of any money order or postal note drawn to the order of such person, firm, corporation, company, partnership, or association, or to the agent or representative of such person, firm, corporation, company, partnership, or association, and the Postmaster General may provide by regulation for the return to the remitters of the sums named in such money orders or postal notes.

The laws of the 48 States vary greatly. It is interesting that with the changing of the times has also come a change in pornographic matter. Back in 1900 many States had inaugurated statutes to stop the traffic of pornography, but in those days they were little 2 by 4's known as Maggie and Jiggs books, little pamphlets, a few pictures. Today the business has become highly specialized. There is film, in both color and black and white, wire recordings, records, booklets in color and many variations of all types.

Many of the statutes of the several States have been unaltered, and because of the new influx of the type of pornographic material these statutes are not applicable.

A digest of the laws of the States are recited. These laws usually make the offense of dealing in pornographic materials a misdemeanor.

SUBJECT: MINIMUM AND MAXIMUM PENALTIES IMPOSED FOR VIOLATIONS OF STATE LAWS PERTAINING TO OBSCENE AND PORNOGRAPHIC MATERIALS

Alabama

Posting or leaving obscene picture or printed matter near a church, school, highway, etc.—Fine of $10 to $500, or punishment at hard labor by the county up to 12 months.

Introducing, advertising, or selling obscene material.—Fine of $50 to $1,000.

Display of nude pictures in public places, except galleries.—Fine of $50 to $500.

Code (1940) Lit. 14 §§ 372–374.

Arizona

Preparation, advertisement, distribution, sale or exhibition of obscene materials.—Imprisonment in county jail up to 6 months, or fine up to $300, or both.

Code Ann. (1939) §§ 43–110; 43–3002.

Arkansas

Circulation, offer for sale, and sale of obscene materials.—Fine of $100 to $300 for first offense· $500 to $1,000 for second offense.

Selling, offering for sale, or possessing any materials, the shipment of which has been rejected by the United States mails, or which the Federal Government will not permit to be shipped or handled. Fine of $50 to $100; each day of violation being a separate offense.

Stat. Ann. (1947) §§ 41–2704, 41–2706 to 41–2708.

California

Imprisonment in county jail up to six months or fine up to $500, or both, for the first offense; or imprisonment in state prison for not less than one year for subsequent offenses.—Penal Code (Deering, 1949) §§ 19, 311.

Colorado

Fine of $100 to $2,000 with costs, and imprisonment in the county jail up to one year.

Rev. Stat. (1953) § 40–9–17.

Connecticut

Imprisonment up to two years, or fine up to $1,000, or both.

Gen. Stat. (1949) § 8567.

Delaware

Fine of $250 to $2,500, or imprisonment for 30 days to three years, or both; and fine of $500 to $5,000, or imprisonment for six months to five years, or both, for subsequent offenses.

Code Ann. (West, 1953) ch. 11 §§ 711–712.

Florida

Imprisonment in state prison up to five years, in the county jail not exceeding one year, or fine up to $100.

Stat. Ann. (1944) § 847.01.

Georgia

Imprisonment for one to five years; or, on jury's recommendation, a fine not to exceed $1,000 or imprisonment up to six months at work on the public roads, or on other public works, not to exceed 12 months, or one or more of these penalties

Code Ann. (1953) §§ 26–6301; 27–2506.

Idaho

Imprisonment in county jail up to six months; or fine not exceeding $300 or both.

Code Ann. (1948) §§ 18–113, 18–4101.

Illinois

Imprisonment in county jail up to six months, or fine of $100 to $1,000.

Ann. Stat. (Smith-Hurd, 1935) ch. 38 § 468.

Indiana

Fine of $10 to $200, to which may be added imprisonment up to 90 days.

Stat. Ann. (Burns, Supp. 1953) § 10–2805.

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Iowa

Imprisonment up to one year, or fine up to $1,000.
Code Ann. (West, 1950) § 725.4.

Kansas

Fine of $5 to $300, or imprisonment up to 30 days, or both, for dealing in obscene literature; fine of $50 to $1,000, or imprisonment from 30 days to six months, or both, for publishing such literature.
Gen. Stat. Ann. (Corrick, 1949) §§ 21–1101 to 21–1102.

Kentucky

Fine of $50 to $1,000, or imprisonment from 10 days to one year, or both.
Rev. Stat. (1953) § 436.100.

Louisiana

Fine up to $500, or imprisonment up to two years, or both.
Rev. Stat. Ann. (West, 1951) Tit. 14 § 106.

Maine

Fine of $100 to $1,000, and imprisonment up to five years for publishing and circulating obscene materials. Fine of $25 to $100, or imprisonment up to six months, or both, for circulating such materials among minors.
Rev. Stat. (1954) ch. 134 §§ 24, 27.

Maryland

Fine up to $200, or imprisonment up to one year, or both.
Code Ann. (Flack, 1951) art. 27 § 515.

Massachusetts

Imprisonment up to two years, or fine of $100 to $1,000, or both, for first offense; imprisonment of six months to two and one-half years, or fine of $200 to $2,000, or both, for subsequent offenses. These penalties apply to sales or distribution of obscene literature to persons under 18.
Imprisonment up to two years, or fine of $100 to $1,000, or both, for sale or distribution of obscene pamphlets, records and pictures, and books.
Ann. Laws (Supp. 1954) ch. 272 §§ 27–28B.

Michigan

Imprisonment in county jail up to 90 days, or fine up to $100, or both, for first offense; imprisonment up to one year, or fine up to $500 for second offense; imprisonment up to four years, or fine up to $2,000, or both, for third and subsequent offenses. Stat. Ann. (1938) §§ 28.575–28.577, 28.577 (1), 28.771–28.772.

Minnesota

Imprisonment of 90 days to one year in county jail, or fine of $100 to $500, or both.
Stat. Ann. (West, 1947) § 617.24.

Mississippi

Fine up to $500, or imprisonment in county jail up to six months, or both.
Code Ann. (1942) § 2288.

Missouri

Fine of $50 to $1,000, or imprisonment in county jail up to 1 year, or both.
Ann. Stat. (Vernon, 1953) § 563.280.

Montana

Imprisonment in county jail up to 6 months, or fine up to $500, or both.
Rev. Code (1947) §§ 94–116, 94–3601 to 94–3603.

Nebraska

Fine of $50 to $1,000, or imprisonment in county jail up to 1 year, or both.
Rev. Stat. (1943) § 28–921.

Nevada

Fine of $500 to $1,000, or imprisonment in county jail from 6 months to 1 year, or both.
Comp. Laws (Hillyer, 1929) §§ 9968, 10144.

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New Hampshire

Fine up to $500, or imprisonment up to 6 months, or both.
Rev. Laws (1942) ch. 441 §§ 14–17; am. Laws 1947 ch. 73; 1953, ch. 233.

New Jersey

Fine up to $1,000, or imprisonment up to 3 years, or both.
Stat. Ann. (West, 1953) §§ 2A: 85–7, 2A: 115–2.

New York

Imprisonment from 10 days to 1 year, or fine of $150 to $1,000, or both, for each offense.
Penal Law (McKinney, Supp. 1954) § 1141.

North Carolina

Common law penalty for misdemeanors; presumably by imprisonment in county jail up to 1 year, or fine in the discretion of the court, or both.
Gen. Stat. Ann. (Michie, 1944) §§ 14–1 to 14–3, 14–189.

North Dakota

Fine of $5 to $100; or imprisonment in county jail up to 30 days, or both.
Rev. Code (1943) § 12–2109.

Ohio

Fine of $200 to $2,000, or imprisonment up to 7 years, or both.
Rev. Code (Page, 1954) § 2905.34.

Oklahoma

Fine of $10 to $1,000, or imprisonment from 30 days to 10 years, or both.
Stat. Ann. (West, Supp. 1954) Tit. 21 § 1021.

Oregon

Imprisonment in county jail up to 6 months, or fine up to $500, or both.
Rev. Stat. (1953) § 167.150.

Pennsylvania

Fine up to $500, or imprisonment up to 1 year, or both.
Stat. Ann. (Purdon, 1945) Tit. 18 § 4524.

Rhode Island

Fine of $100 to $1,000, or imprisonment up to 2 years.
Gen. Laws (1938) ch. 610 § 13.

South Carolina

Fine up to $1,000, or imprisonment up to 2 years, or both.
Code Ann. (1952) § 16–414.

South Dakota

Fine up to $500, or imprisonment in county jail up to 1 year, or both.
Code (1939) §§ 13.0607, 13.1722.

Tennessee

Fine up to $1,000, or imprisonment in county jail up to 1 year, or both.
Code Ann. (Williams, 1934) §§ 10756, 11190.

Texas

Fine, up to $100.
Penal Code Ann. (Vernon, 1952) art. 526.

Utah

Fine up to $300, or imprisonment in county jail up to 6 months, or both. Corporations may be fined up to $1,000.
Code Ann. (1953) §§ 76–1–16, 73–39–1.

Vermont

Fine up to $200, or imprisonment up to 1 year.
Stat. (1947) § 8490.

Virginia

Fine up to $500, or imprisonment up to 1 year, or both.
Code Ann. (Michie, 1950) § 19–265; (Supp. 1952) § 18–113.

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Washington

Publishing detailed accounts of adultery, sexual crime, or of evidence of immoral acts offered in court: Fine up to $1,000, or imprisonment in county jail up to 1 year, or both.

Sale, possession, distribution, or exhibition of obscene material: Fine up to $250, or imprisonment in county jail up to 90 days.

R. C. W. (1951) §§ 9.68.010, 9.68.020, 9.92.020, 9.92.030.

West Virginia

Fine up to $1,000, and imprisonment up to 1 year.

Code Ann. (1949) § 6066.

Wisconsin

Imprisonment in county jail from 3 months to 1 year, or imprisonment in State prison from 1 year to 5 years, or fine of $100 to $5,000.

Stat. (1951) § 351.38.

Wyoming

Fine up to $100, to which may be added imprisonment in county jail up to 6 months.

Comp. Stat. (1945) § 9–513.

Excerpts from replies to questionnaires sent by the subcommittee to chiefs of police across the Nation show their opinions regarding the laws dealing with the pornography traffic.

St. Paul, Minn.: "I believe that penalties for the manufacture of such materials should be so strong as to discourage any repetition by violators. The State legislature is now in the process of passing new laws tightening restrictions on this matter."

Minneapolis, Minn.: "In some cases, we do not feel that our laws, either State or local, are adequate to cope with the so-called art magazines and photos. Without any question, certain of these magazines would be detrimental to the minds of juveniles."

Worcester, Mass.: "Penalties are not sufficient."

Gary, Ind.: "In our opinion, the sentences should be greater, especially where juveniles are the purchasers."

Durham, N. C.: "In my opinion, the penalties rendered in these cases should be more severe."

Norfolk, Va.: "In my opinion, State and local laws are adequate to cope with the problem; however, I feel that the punishment should be more severe."

Dallas, Tex.: "In my opinion, State and local laws are not adequate to cope with the problem. Under Texas laws, violations of this type are claimed as misdemeanors."

Los Angeles, Calif.: "Under our present laws, it is sometimes difficult to obtain convictions that discourage future participation by the defendant, because the sentence imposed is quite often negligible. It is generally felt that if such a conviction would require registration as a sex offender, the frequency of repeaters would drop noticeably. Uniformity of the laws pertaining to pornography would be of great value insofar as the liaison between police agencies is concerned. Many acts constituting a violation of the Los Angeles Municipal Code are not illegal acts in other States and cities."

Some court decisions defining obscene matter

In *Rosen* v. *United States* (161 U. S. 29), the court defines an obscene book or paper within the act as relating to nonmailable matter as one which contains immodest and indecent matter, the reading whereof would have a tendency to deprave and corrupt the minds of those in whose hands the publication might fall, and whose minds are open to such immoral influences.

In *United States* v. *One Book Called Ulysses* (5 Fed. Supp. 182, affirmed in 72 Fed. 2d 705), is as follows:

* * * tending to stir the sex impulses or lead to sexually impure and lustful thoughts * * * whether a particular book would tend to excite such impulses and thoughts must be tested by the court's opinion as to its effect upon the person with average sex instincts * * *

In *United States* v. *Two Obscene Books*, the court stated:

It may be the modern trend toward frankness in sexual matters has influenced the viewpoint of claimant and the critics who espouse to the cause of Miller. Certainly, the theater, the motion pictures, and similar media, and Mr. Kinsey may have affected our attitude to such matters. It is sufficient to say, however, that many obscene passages in the book have such an evil stench to include them here in footnotes would make this opinion pornographic * * *. If this be importable literature, then the dignity of the human person and the stability of the family unit, which are the cornerstones of our system of society, are lost to us. Our circuit has approved the simple standard that obscenity has "the meaning that which is offensive to promote the general corruption of morals. The true test * * * is whether its language has a tendency to deprave or corrupt the morals of those whose minds are open to such influences and into whose hands it may fall by allowing or implanting in such minds, obscene, lewd, or lascivious thoughts or desires."

These decisions are based on books that have been sold openly on the newsstands of America. The material which this subcommittee has concerned itself with has, for the most part, been of such a lewd, indecent, obscene nature that no court in the country would have difficulty in determining the fact that this material was pornographic.

V. THE UNITED STATES POSTOFFICE DEPARTMENT

The Postoffice Department is vitally interested in the matter of curtailing the distribution of obscene, lewd, indecent, and pornographic material through the mails. The dealers in this material use the mails extensively in the distribution of books, pamphlets, magazines, pornographic comic books, film, recordings, and other forms of mass media.

Mr. William C. O'Brien, Assistant Solicitor, Mr. Harry J. Simon, Chief Postal Inspector, and Mr. Ralph E. Stapenhorst, postal inspector, Los Angeles, Calif., appeared before the subcommittee.

The problems faced by the Postoffice Department in dealing with the mailing of pornography were forcefully brought out by these witnesses.

Mr. O'Brien's testimony points up some of these problems.

I may say at the outset that the Post Office Department is receiving a great many complaints from parents whose children have been the recipients of obscene advertising of various kinds. On the cardboards which have been brought into the committee room we have attached samples of advertising matter which has been sent through the mails and complained about, and some copies of the letters from parents complaining about the advertisements exemplified on those boards, which were received by those children, some sent to very young children, and some sent to teen-agers.

The mailing volume of these advertisements is steadily growing. The volume of complaints we are receiving is steadily growing, and in my long experience, it has never heretofore been equaled in volume or as to the character of advertising.

The advertising is becoming more daring. It is already a menace in itself to public morals, and especially to the morals of children.

I think, in my judgment, the increase of this traffic is due to several principal factors.

One is the steady availability of pornography in wholesale lots, made by such persons as have been discussed in this hearing. The fact that an obscene dealer can go into business on a comparatively small capital—he needs only to begin to circularize advertisements; sometimes they are periodical advertisements of small size, and sometimes they are circular advertisements more ambitiously prepared. An example of this type is one from the Male Merchandise Mart in Hollywood. The other example is one used by Samuel Roth.

As in the case of Samuel Roth, so in the case of other persons that we had to deal with in the mail-order business, the facility with which they can change names

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and also locations is quite a problem for our Department in dealing with these enterprises.

To correct this difficulty the recommendation of the Department is incorporated in a bill which was introduced by Congressman Rees of Kansas, H. R. 174. That bill would authorize the Post Office Department, the Postmaster General, to temporarily impound mail of companies whose sale of indecent literature through the mails is the subject of a proceeding.

I would like to discuss the legal situation, the laws which we have to use and which we try to enforce in the Post Office Department to prevent the dissemination of obscene matter.

Of course, the principal and oldest law is the one now incorporated in title 18 of the United States Code, known as section 1461. It is a law which was passed in 1872 and amended several times since, and it has a twofold character. It provides that no obscene, lewd, indecent, or filth matter shall be carried in the mails. It says that if they are carried in the mails, they shall not be delivered by any post office or letter carrier. And it also provides a penalty for whoever knowingly deposits such matter in the mails, or knowingly causes it to be taken from the mails. The penalty is $5,000 fine or 5 years imprisonment, or both.

That, of course, is very strong law, both in the scope of the matter it embraces and also in the penalty it carries. The difficulties of enforcement, of course, are very numerous.

We have had the experience of not being able to prosecute offenders where it would do the most good—in other words, where the obscene matter has been directed for delivery. That is because a fellow may live in a liberal or ultraliberal typical jurisdiction, either on the west coast or the east coast. They do not regard the mailing of some of the stuff we consider obscene very serious, the fines or penalties imposed are not commensurate with the injury that such matter does to the public, and especially to juveniles.

Therefore, the Post Office Department is advocating and presently trying to obtain approval for additional legislation which will authorize prosecution of offenders in the communities where the matter is delivered and where it actually inflicts injury upon the recipient. I think such legislation would be of great help in deterring some of this traffic.

The nonmailability statute is one which is most often employed by the Post Office Department, because it is readily applicable to all matter which is not under seal. That would enclose all circular matter which is third class and all publications which are not mailed under seal. Therefore, most of our post cards, most of our work, comes under that statute. We do exclude from the mails under that statute great quantities of nonmailable obscene matter, mainly in the form of periodicals. Sometimes two or three hundred copies of a magazine may be declared unmailable because it is obscene. The publishers are pretty well acquainted with that fact, and consequently we find not many of them willing to take a risk when they have a bad issue; they probably send it by some other means of conveyance. Sometimes you will find publications scattered around the country which have indicia on them indicating entry as second-class matter, but that doesn't mean that it was disseminated by the mail; it could have been delivered by private carrier, common carrier, or other form of transportation.

And then, of course, we have a number of lawsuits arising from our efforts to exclude obscene matter from the mails. We have some very close questions on what obscenity constitutes. The battle is an unceasing one between those who want to make a living out of this pornographic matter, and law enforcement officers and the public, which objects to having the mail used for the distribution of such material.[5]

Mr. Harry J. Simon described some of the enforcement problems faced by the postal inspector's office.

I have some statistics on the number of arrests in comparison to the number of cases we have issued for investigation. That is based on the mailing of all types of nonmailable matter, including threatening letters and postal cards. During the fiscal year ending 1954, we had issued for investigation 5,233 cases, which is quite an increase, and the statistics in our possession at the present time indicate that there will be a tremendous increase during the current fiscal year.

Arrests for mailing obscene matter during the fiscal year ending June 30, 1954, were 136 arrests and 112 convictions.

[5] O'Brien, William, see testimony, op. cit., pp. 283-293, 306-312.

During the current fiscal year ending April 1955, there were 166 arrests and 137 convictions.

My experience has been that the penalty is very small in most obscenity cases; they get $50 or $100 fines. Most of them are probation and frequently not even a fine.

I just experienced three cases that were tried in San Francisco, Calif., involving mail-fraud photographs. We obtained indictments in each case and convictions in each instance. These defendants were given suspended jail sentences from 6 to 9 years and fines were $1,500, $3,000, and $4,000 and one other defendant in the same cases received a $5,000 fine. Those are the only adequate sentences we have experienced in this particular type of case.

Our investigations are conducted through the use of fictitious names and what is known as test correspondence. As a result of such correspondence the names that we use have gotten on mailing lists of various dealers in obscene matter and we have seen a large number of circulars from all parts of the country.

In addition we get thousands of complaints from the public during the course of a year, from persons who have received such literature, and including a large number from parents of juveniles.

Much of our difficulty is in the large cities, and we feel that if we could get legislation that would permit prosecution at the offices of address, we would be able to curb a number of these.

I have for the past 6 or 7 years been endeavoring to obtain a conviction at the office of address in connection with the mailing of obscene matter under sections 1461 and 3237 of title 18, United States Code.

Section 3237 states that where the mails are used, it is a continuing offense, and prosecution can be instituted at the office of mailing address or any point through which it passes.

We have obtained a number of indictments in various jurisdictions but almost invariably the defendants have entered a plea of guilty and we have had very few contested cases. But in one case of the larger dealers in obscene matter, we had an 82-count indictment returned in the State of Kansas against one of the larger dealers in this type of material. They were completely nude, but not of the action type of photograph, or motion-picture film.

The judge in the district court held that the offense was complete when the matter was deposited in the mails in California and he dismissed the indictment. The case went up to the court of appeals at Denver, and the court of appeals sustained the lower courts.

I might mention a case which came to my attention about 6 weeks ago * * *.

In the middle of April (1955) I caused the arrest of a 16-year-old high-school boy, who had just turned 16 in April, for engaging in the sale of extremely pornographic matter. He mimeographed and sent through the mails a large number of lists of approximately 51 pornographic picture films.

That boy came from a very fine family, mother and father separated. The mother knew the youngster was engaged in the mail-order business but he developed his extremely pornographic business about last August. Since then and up to the time of his arrest he sold over $3,000 worth of pornographic film. We have ascertained from the boy his source of supply, and that matter is now before the United States attorney in Los Angeles, in which district the supplier was located.[6]

Mr. Ralph E. Stapenhorst, postal inspector in Los Angeles, described the operation of the mail-order pornography traffic in that area.

Mr. BOBO. In the Hollywood and the California area, the district covered by the Los Angeles office, is the volume or the number of people engaged in this business of selling nude photos and nude films—what would you say the extent of that operation is in this area?

Mr. STAPENHORST. Well, there may be deposited in the mails each day anywhere from a thousand to four or five thousand, perhaps more than that number of letters addressed to prospective customers.

As to the dollar volume, as to the total number of incoming orders every day, there are scores of operators, large and small, in these businesses, and I would have no way of knowing.

Mr. BOBO. Do you have any approximation? Have you ever worked on a case that would give you an idea as to the volume of business which an operator might do?

[6] Simon, Harry J., see testimony, op. cit., pp. 293–299, 306–312.

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Mr. STAPENHORST. I am aware that at times, day after day or evening after evening, Roy J. Ross and Louis Tager would deposit for dispatch 30,000, 40,000, and 50,000 letters a day. There is a statement somewhere in the record that on 1 day 100,000 first-class letters were mailed to prospective clients.

I have also seen large quantities of the outgoing parcels mailed by Roy J. Ross and Louis Tager at the Van Nuys post office.

Mr. BOBO. From the complaints that the Post Office Department received in Los Angeles and of the complaints with which you have knowledge, what is the extent of the business?

Mr. STAPENHORST. You mean in——

Mr. BOBO. In relation to juveniles or in relation to any other person, people complaining that this material was sent to them from the Los Angeles area.

Mr. STAPENHORST. The business seems to maintain more or less of a level. I would doubt that at the present time all the dealers in obscene matter are mailing thirty to fifty thousand letters a day as Roy J. Ross was doing himself at one time. Other than that, I know there are scores of operators in this area, as revealed by the ads in the so-called girlie magazines.

Mr. BOBO. We have received a number of complaints in our office in Washington of the Male Merchandise Mart. Have you done any investigation on that particular case?

Mr. STAPENHORST. Yes, I have.

Oh, do you wish some details on the extent of the operation?

Mr. BOBO. Yes.

Mr. STAPENHORST. In February 1954, the Postmaster General received hundreds of complaints concerning the Male Merchandise Mart. On March 1, 1954, the Postmaster General——

Mr. BOBO. Where is this Male Merchandise Mart?

Mr. STAPENHORST. Male Merchandise Mart has an office and packing room at 8627 Melrose Avenue, Los Angeles 46, Calif.

The records of the county clerk of Los Angeles County reveal that the owner of the firm is V. E. Stanard. V. E. Stanard is known to me as Violet Evelyn Alberts, the wife of David Stephen Alberts, a man who has been convicted in both the State and Federal courts on charges of dealing in or mailing obscene matter.

Mr. BOBO. What type of obscene matter has that operation, the Alberts operation, been, Mr. Stapenhorst?

Mr. STAPENHORST. In March 1954 the mail was impounded upon order of the Federal judge. In August 1954 it was released to the plaintiff after a civil action had been filed and heard, because the evidence before the court consisted only of the advertising.

Before me I have a recently mailed circular of Male Merchandise Mart, and the circular starts out at the top:

"BANNED BY BIGOTS WHO CAN'T STAND THE MEANING OF THE WORD 'SEX,' BUT AVAILABLE TO YOU IF YOU HURRY

"The Male Merchandise Mart firmly believes that mature men of clean minds are entitled to choose their own literature. We have waged a relentless war against prudes and self-appointed censors who would keep these fascinating and enlightening books from you.

NOTE.—We make every possible effort to prevent these books from reaching young people or persons who would use them for the fulfillment of indecent desires."

At this point I would like to make an observation. Some years ago I made approximately 25 test purchases from David S. Alberts and from some of the firm names he was using at that time. I say under oath, and I could produce the records to prove it, that on every single one of the orders I sent to David S. Alberts I did not put anything in the space which called for the customer's age.

Inside the circular are described 26 books on every angle of sex. Some of the titles are:

"Aphrodisiacs and Anti-Aphrodisiacs: Subtle, unusual methods of stimulating sex interest in yourself and your mate.

"The History of Flagellation: Strange, lurid cases of men and women submitting to lash and fang for sex gratification. McCabe. $1.

"Bestiality and the Law: The shocking prevalence of sexual relations between humans and animals. Niemoeller. 55 cents.

"Bestiality in Ancient and Modern Times.: Shameful revelation of why some women must have male animals under their roofs. Niemoeller. 55 cents.

"What Is a Hermaphrodite?
"Why Males Wear Female Attire.
"Magical Secrets of Love: Sexual witchcraft.
"William Heirens, Notorious Sex Maniac: Case histories of lust-crimes and their perpetrators. Cauldwell. 55 cents.
"Petting as an Erotic Exercise: Precoital techniques among the unmarried and wedded discussed.
"Revelations of a Sexologist.
"Private Letters From Homosexuals to a Doctor.
"The Intimate Embrace: Scientific discourse on the various positions of embrace. A recommended study for husband and wife. Cauldwell. 55 cents."

So much for the books on every angle of sex.

"Are ordinary novels too tame for you? Here's exciting, intimate reading that gives you that thrill!

"POCKET-SIZE EDITIONS, 15 CENTS EACH. MINIMUM ORDER, $1

"Curious and Unusual Love Affairs.
"Confessions of a Minister's Daughter.
"Amorous Tales of the Monks.
"The Love Affairs of a Priest and a Nun.
"The Prostitute and Her Lover.
"Art of Intimacy in Marriage."

All for 15 cents, mind you. Minimum order $1.

Then they have Sex in Prison, Wild French Cartoons, The Filmsey Report, and French Love Stories.

"*Rare specials.*—These are full-length unabridged hardcover books, that have been ordered out of print in this edition. Each one is a "must" for your very private collection. $2 each:
"Naughty Bedtime Books.
"Bedroom With a View."

There are 2 for $1, 5 for $2, or all 9 books for only $3:
"Bed Time Girl.
"Brutal Kisses.
"Come Night, Come Desire.
"Everybody Loves Irene.
"Four Dames Named Sin. * * *"

Mr. STAPENHORST. On the circular which accompanies the one printed in black on yellow paper is an announcement:

"MEN * * * LET'S FACE IT!

"There's a lot of 'sock' that can be gotten from adult items dealing with our favorite subject * * * sex. But you've got to play by the rules, and that is restrict these items for adult use only. We can bring you these hard-to-get, genuine private stag items if you keep your pledge."

Among the items sold are:
"Wow! Wolf Deck!! Sold to adults only!
"$3.50 deck, 2 for $6.
"A pack of beauty.
"Art slides in natural color.
"Body in art.
"Peep show.
"Real old-time cartoon booklets. A whole flock of 'em for $2—and a flock of 'rare enjoyment' in every one!
"Just the kind that dad used to carry around in his vest pocket and show the gang at the Saturday night poker session. They are rich!
"All new and good—a big assortment, $2.
"Beauty in Bondage: Whose heart would not thrill in pity at the poor, helpless, cruelly gagged and bound young creatures, completely at the mercy of their brutal captors?
"Marilyn Monroe playing cards, $3 per deck. Special: Both decks, $5.50.
"Banned before—now available for first time!
"Banned from the mails as lewd * * * now, a special court ruling makes this great nude available to you for the first time. Her nude, not lewd, says the judge! * * *"

Chairman KEFAUVER. Well, Mr. Stapenhorst, I was interested in one picture here that we have had a lot of testimony about. That is this bondage testimony,

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Tina's Torture. We have had testimony of psychiatrists that these bondage pictures have a very deleterious effect upon young people. You didn't mention that one. That is one of the ones up here [indicating]. What does that say?

Mr. STAPENHORST (reading):

"Tina's Torture is advertised:

"'Best bondage serial ever made.'

"Read what happens when a beautiful female spy captures Tina, innocent young daughter of a brilliant scientist, and attempts to force a secret formula from her sweet lips.

"What terrors await Tina in the secret dungeons?

"Tina couldn't understand why she was bound so strangely until her evil tormentor called in the assistant. How could Tina know why the French maid trembled eagerly as Tina's body heaved with pain?

"Does Tina reveal her father's secret? We couldn't blame Tina it she did when one bondage and torture device after another subjected her to humiliation and pain.

"You'll find all the answers graphically illustrated and fired with imagination in this amazing new series.

"Episodes Nos. 1 and 2 are now ready. $3 per episode; $5 special.

"Both episodes Nos. 1 and 2 (6 sensational scenes), each episode on 8 by 10 glossy photo.

"Final 18 chapters of Tina's Torture are now ready. Special price for all 20 chapters is only $18 if bought at one time; 10 chapters for $12, 3 chapters for $5."

Mr. BOBO. I would like to interject just a moment, if I might, Mr. Stapenhorst, that the subcommittee answered a number of ads that appeared in magazines on stationery in a very scrawled hand; the stationery being headed "Eastern High School, Washington, D. C." We signed these with the names of "Claude Marvin" and "Peter Nicholas," represent the first names of two staff members of the subcommittee. We received an answer from the Male Merchandise Mart containing exactly the material which you have described there. * * *

Chairman KEFAUVER. You mean that it was written on the letterhead of Eastern High School?

Mr. BOBO. Yes, sir; on student stationery with "Eastern High School" on the head of it.

Chairman KEFAUVER. And you got back the same material?

Mr. BOBO. Exactly the same.

Chairman KEFAUVER. The same material that Mr. Stapenhorst has been describing. All right.

Mr. BOBO. Mr. Stapenhorst, have you done any survey or received any data relative to the volume of business that was done by the Alberts operation?

Mr. STAPENHORST. In March and April of this year a count was kept of the number of pieces of mail which were delivered to Mrs. V. E. Standard and her husband, David S. Alberts, at the west branch of the Los Angeles post office. This count did not include in the totals the number of letters which were returned to the sender, which sometimes ranged up to two or three hundred pieces a day. The volume ran from 497 to 1,033 letters a day addressed to Male Merchandise Mart, Stag Shop; various other enterprises operated by David S. Alberts and his wife; for an average of 696 letters per day over a 7-day period.

I have no information concerning the volume at the present time, but I would assume that is it about the same, possibly a little greater, a little less.[1]

VI. IMPORTATION OF PORNOGRAPHY AND THE UNITED STATES BUREAU OF CUSTOMS

Mr. Irving Fishman, deputy collector of customs, New York City, N. Y., has appeared before several congressional hearings on various subjects within the jurisdiction of the collector of customs office under provisions of the Tariff Act of 1942. He has appeared concerning section 305 of the Tariff Act which deals with the prohibition against importation of materials considered obscene or immoral.

Mr. Fishman stated that in 1953, for example, the Post Office Department submitted to the customs service, nationwide, approximately 28 million mailed parcels for examination. With the man-

[1] Stapenhorst, Ralph E., see testimony, op. cit., pp. 355–374.

power available the customs service could examine only approximately 5 percent of the total. The other 95 percent went unexamined which greatly aided the importation of obscene and lewd material. This average applies at most of the major ports of the United States.

Excerpts from Mr. Fishman's testimony are quoted:

Mr. CHUMBRIS. Do you have any exhibits there of seizures you have made through your various offices?

Mr. FISHMAN. We have some samples of some of the things that we have been doing a little discussion with. Some of these things have been found objectionable and some have not. I brought along a few samples of the type of imported art study publications that we are constantly battling with. These are printed abroad. There are plenty of them printed in this country. This type of thing is alleged to be used by photographers and students of art.

Then we have the group of sunbathing type magazines, which give us a lot of difficulty. And then, of course, we have the type of foreign publications which we found objectionable, as being pornographic.

I have also brought along for examination by the committee some of the situations that we have been able to correct. For example, it was a popular thing, and still is from time to time, a piece of business to advertise in college publications, that you can send away and buy various types of photographs, and a sample of the type of photograph you can buy is sent along. You can order by number.

If you order and your money happens to get through to the foreign country, they will send you these photographs. Whenever we find a concerted move to buy this type of thing, we notify the Post Office Department, which issues a fraud order, and we stop the money from leaving the United States to these foreign countries.

One of the things we are alert to and try to keep under control is the importation of negatives. The importation of one negative can result in the production of a couple of thousand copies in this country.

Mr. CHUMBRIS. Do you have many negatives that you have been able——

Chairman KEFAUVER. They will be filed as exhibits; also the negatives. We will return them later, if you would like to have them.

Mr. FISHMAN. Some of them we would like to have back for our evidence. We have recently made some large seizures.

Chairman KEFAUVER. What do you call a large seizure?

Mr. FISHMAN. A couple of thousand negatives and prints, and so on, and so forth—various assortments. For example, this sort of thing. These are negatives and they are in series—complete series of photographs which are subsequently printed and made into a book. One set of these negatives can result in the production of a heck of a lot of books.

These, of course, are from a current seizure and we would like to get them back.

Chairman KEFAUVER. Are they mainly pornographic?

Mr. FISHMAN. Yes. Some of them are not only pornographic but they are filthy. I don't think we would have any difficulty proving these are obscene. I put these aside separately and I would like to get them back, if we could.

Chairman KEFAUVER. Where do most of these things come from, Mr. Fishman?

Mr. FISHMAN. Oh, the nudist-type magazine; they are generally shipped from France and Sweden. We get some from Finland, some from Germany. It is pretty difficult to pinpoint them; they come from all over.

Chairman KEFAUVER. Where do the films come from?

Mr. FISHMAN. We have difficulty with the commercial type of motion-picture film, but that is generally not as hard to handle. The real obscene type of film, we pick that sort of thing up infrequently. We have a little difficulty with that.

We had 1 seizure some time ago of about 3,000 feet of film on 1 reel, and about half of it was made up of Mickey Mouse movies, and if our inspector hadn't been persistent enough to run the entire thing about halfway into the reel, he would never have found any of the objectionable material. Obviously, that was prepared with a view of getting it by us. Our surveillance is pretty tight and they very seldom attempt to smuggle commercial obscene motion-picture film into the United States.

Chairman KEFAUVER. As I understand it, on letters and things of that sort you have a staff that can only look at about 5 percent; is that right?

Mr. FISHMAN. That is correct. We make a segregation of it. Our people are pretty expert in determining from the size of the package and the shipper what it contains. They try to segregate anything which looks like it might be ques-

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tionable, so that we do have a look at it. The fact remains that we can only reach about 5 percent of all of this imported mail.

Chairman KEFAUVER. Is there an effort made to send a great deal of this stuff into the United States?

Mr. FISHMAN. It ebbs and flows, depending on the situation in the country. Every time the courts are apt to become liberal in their interpretation of what is objectionable, there is an increase in this type of thing.

Chairman KEFAUVER. When the courts crack down, then there isn't much of it that comes in?

Mr. FISHMAN. That is right. As a result of some of the recent rulings on motion-picture film, there was an increase of foreign motion-picture film into the United States, which we ordinarily would hold up, which we did still hold up.

Chairman KEFAUVER. As a result of the Supreme Court decision, has there been an increase?

Mr. FISHMAN. That didn't help us very much, although we haven't changed our views as a result of the ruling.

Chairman KEVAUVER. You were not ruling out "just art," anyway, were you?

Mr. FISHMAN. No.

Chairman KEFAUVER. Whom are these consigned to when they come over here?

Mr. FISHMAN. There are a number of dealers in this area, and also in areas throughout the United States, who receive commercial lots of this type of magazine. They will continue to bring in the type that we will pass, and periodically will attempt to increase the number of new magazines that they will produce. Some of them have been held as strictly obscene, and those they stopped.

It is a constant cat and mouse situation. As we hold them up, they go on to new publications and new titles.

Chairman KEFAUVER. Do you have a list available of the most frequent consignees?

Mr. FISHMAN. We can make up such a list.

Chairman KEFAUVER. Make it up and we will make it an official part of the record. Also, describe the kind of material that is being consigned to them.

Where is it paid for? Is it paid for upon delivery—that is, the freight?

Mr. FISHMAN. It is usually shipped pursuant to a letter of credit so that the funds are turned over to the shipper as soon as the shipment leaves the foreign country.

Chairman KEFAUVER. After it reaches the port of New York and the port of Boston, and the port of New Orleans, then it is shipped on, or is it usually received in the port?

Mr. FISHMAN. I would assume, judging by the quantities, that it is distributed throughout the United States.

Chairman KEFAUVER. And then shipped further by truck or automobile?

Mr. FISHMAN. By truck or automobile—anything to avoid the Post Office Department.

Chairman KEFAUVER. They don't send this through the mails?

Mr. FISHMAN. Not so far as we know.

Chairman KEFAUVER, I take it if the same ruler were applied to material shipped in as is applied to what is sent through the mails, a lot of this wouldn't get by?

Mr. FISHMAN. That is right.

Chairman KEFAUVER. If you had the same definition under the customs statute that you have in the postal statute, you would be relieved of a whole lot of headaches?

Mr. FISHMAN. That is right.

Chairman KEFAUVER. Do you recommend that be done?

Mr. FISHMAN. I do.

Chairman KEFAUVER. I can't see the logic prohibiting something from going through the mail, and at the same time letting it come in.

Mr. FISHMAN. It has been a loophole for a long time, but while it has been called to the attention of many groups and committees up until now nothing has been done about it. We testified to much the same problem before another committee, and I think the Post Office Department and the Postmaster General will have lots to say on the same subject.

Chairman KEFAUVER. That would be legislation that would stop a lot of it, and help you with your troubles?

Mr. FISHMAN. That is correct.

Chairman KEFAUVER. I am looking here at some of the big seizures that you have made of 6,000 cases, or books, or what.

Mr. FISHMAN. May I see the photograph?

Chairman KEFAUVER. I was looking at some of the figures. The importer and the size of the seizures you have made.

Mr. FISHMAN. Well——

Chairman KEFAUVER. There are about 15 or 18 of them, and all of them seem to have been released except 2 of them.

Mr. FISHMAN. They represent this so-called art type of magazine. The ones that we have indicated as being released.

Chairman KEFAUVER. Sun Reviews, and so forth?

Mr. FISHMAN. I brought along some of that type of publication.

Chairman KEFAUVER. Do we ship much of this stuff out of the United States to other nations?

Mr. FISHMAN. I am afraid I couldn't answer that question.

Chairman KEFAUVER. That doesn't come under your jurisdiction?

Mr. FISHMAN. We have some control over exports, but we don't look for that sort of thing.

Chairman KEFAUVER. These photographs show how it is received?

Mr. FISHMAN. That is correct,

Chairman KEFAUVER. Let them be identified and be put in as exhibits.[8]

VII. INTERSTATE TRAFFIC IN PORNOGRAPHY

The sale and distribution of pornographic materials is, in most instances, a large, well-organized business. Involved in this business are publishers or manufacturers, wholesale distributors, jobbers and independent salesmen.

Profits from the sale of pornographic material are large. One 8-millimeter or 16-millimeter film costs the original producer of the film approximately $4.50 to process. The selling price of this film on the retail market varies from $20 to $50 depending upon the quality of the print and the subject matter covered.

The usual method of producing such a film is a relatively inexpensive operation. A photographer, who usually conducts a legitimate photography business in addition to his work in producing pornographic film and pictures, a room in an out-of-the-way hotel or motel, and the necessary characters for the film or still photograph are the only requirements. Almost without exception, the productions are very crude with no attempt to include any story or plot but only the showing of as many variations of abnormal sex practices as the 400 feet of film will contain. Although this is the usual rule, the subcommittee has come into possession of some film that indicates much more time and money has been spent on its production and there is some attempt to weave a story into the filming.

Of great concern to the subcommittee was the fact that in many of these films and still photographs young girls, a great number in their early teens, and boys in early youth were the actors in these pictures portraying indescribable perversions.

At the same time that the motion picture is being made still cameras are also used to photograph scenes for sale in individual pictures and to make up a series of still photographs for use on ordinary playing cards. This is evidenced by the fact that the same scenes appear on both versions in material gathered by the subcommittee staff and also by the fact that in many of the motion pictures the still photograher can be observed in his work.

Once a negative is made thousands of prints in both motion picture and still photographs can be made. There is also in the traffic of pornography much plagiarizing of the material of other operators.

[8] Fishman, Irving, see testimony, op. cit., pp. 249–255.

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Probably the largest selling item in the still photograph field is the deck of 52 playing cards with different scenes of perverted acts shown on each card. These cards are very cheaply manufactured and produced. The cost of production and packaging being approximately 12 cents. The price on the retail market of these cards is $5 and thousands of decks are produced and sold annually. This item is particularly suited for sale to young boys in junior and senior high school as they are small in size and can be sold individually among the students at prices ranging from 15 cents to 25 cents per card and passed around among many students.

The variations in the printed stories and comics are many. The one type of pornographic material that reaches most juveniles is the commonly called "2 by 4" comic booklet. These are the crudest types of cartoon drawing usually portraying some popular comic strip or prominent person performing perverted sex acts. The production cost of these booklets would be a fraction of a cent each. They are sold at prices ranging from 10 cents to 50 cents each and are produced and sold by the hundreds of thousands.

Another popular booklet is the commonly called French Novel or 4 by 5 booklet that contains approximately 30 pages of printed story and 4 perverted photographs. The stories related in these booklets are indescribable in the manner in which they present stories designed to excite the passions of the reader. It was thought by the subcommittee in the beginning of its investigation that these books were imported as they usually bore the name of a French concern and the word Paris on the cover, but it has been determined that these books are printed in the United States and usually done very crudely.

Of very recent origin is a new type of pornographic book which is larger than the French Novel and printed in full color. This book retails for approximately $10 to $25 as against the price of the smaller book of $3 to $5.

There is also an extensive traffic in regular hard-bound novel-type books which are entirely pornographic in the story they tell and in the pictures that are used for illustrations.

In addition to these types of pornography which are the most commonly known and circulated there are a great variety of colored slides, still photographs, metal objects, rubber objects and plastic articles that are sold at tremendous profits.

Included in the subcommittee's investigation was also a study of material that could be said to be in the "twilight zone" of obscene material. This material is usually sold through the mail by those engaging in the mail-order sale of this material. This material covers the whole field of printed, filmed, and recorded matter and deals particularly in the fetishes, masochism, sadism and other forms of perversion.

Selling these types of materials falls generally into two categories of dealers. Those who sell at wholesale to customers who in turn sell the material by personal contact to retail customers, and those who sell direct by solicitation in magazines, comic books, and circular mail to the retail customer.

The subcommittee during the course of its investigation heard from many of these dealers and also investigated many others. To show the operation of this market some of the larger dealers are referred to in this section of the report. A spot map of retail contacts of known

pornography distributors consists of the names and addresses gathered from only three of the subsequently discussed pornographers, appears on page 71.

Al Stone, alias Abraham Rubin

Al Stone, Brooklyn, N. Y., is one of the largest dealers in pornographic materials in the United States. He has been known variously by such aliases as Abraham Rubinstein, Ruben Stone, Stoney Ruben White and others. His record of dealing in pornography dates to 1928 when he was arrested in New York for possession of obscene literature, and also shows arrests in Poughkeepsie, N. Y.; Darien, Conn.; Buffalo, N. Y.; Albany, N. Y.; Providence, R. I.; and Detroit, Mich.; all for the same offense. The largest fine paid by Stone was in Darien, Conn., of $250 and in two instances he served a 30-day jail sentence.

In 1953 in Detroit, Mich., Stone was arrested for running a red light. He was recognized as a large distributor of pornography by the arresting officer, Sgt. Joseph E. Brown, who appeared before the subcommittee. In Stone's automobile at the time of his arrest were 551 reels of pornographic movie film with a retail value of over $14,000.

An indication of the extent of Stone's business and his connections was found when a road map was also discovered in his automobile. The map was marked with a route leading from New York to Philadelphia, Pa.; to Harrisburg, Pa.; Pittsburgh, Pa.; Akron, Ohio; Toledo, Ohio; Detroit, Mich.; Fort Wayne, Ind.; Indianapolis, Ind.; St. Louis, Mo.; Louisville, Ky.; Charleston, W. Va.; Richmond, Va.; and return to New York.

Also in his possession was an address book which contained the names and telephone numbers of many of the contacts of Stone in 17 States. The subcommittee circularized these addresses to the police departments of the cities of address of these customers and other arrests resulted from this information.

One of the names appearing in this book was "Onions," 1729 Arch Street, Philadelphia, Pa. Investigation on the part of the Philadelphia Police Department disclosed that "Onions" was in fact Morris Glick. Glick was found to store his pornographic material in the garage of William Feig and a subsequent raid yielded over a ton of material worth many thousands of dollars. In addition to William Feig, Glick also employed Stanley Good, Camden, N. J., as a distributor and Good was arrested with large quantities of material in his car.

Another arrest resulting from the information forwarded by the subcommittee involved Frank Lang in Pittsburgh, Pa. The Pittsburgh police arrested Lang and seized over $100,000 worth of pornography. Lang was the largest distributor ever apprehended in the Pittsburgh area.

In both of these cases the defendants admitted that their source of supply was Al Stone of New York. They also informed subcommittee investigators that Stone had sent word to his customers after his appearance before the subcommittee in New York to "lay low because the heat is on."

After his arrest in 1953 Stone ceased to deliver his material personally, but insisted that his customers come to New York and take the risk of transporting the material personally. His method of operation was to have the customer park his automobile in a designated New York garage where one of Stone's employees would pick

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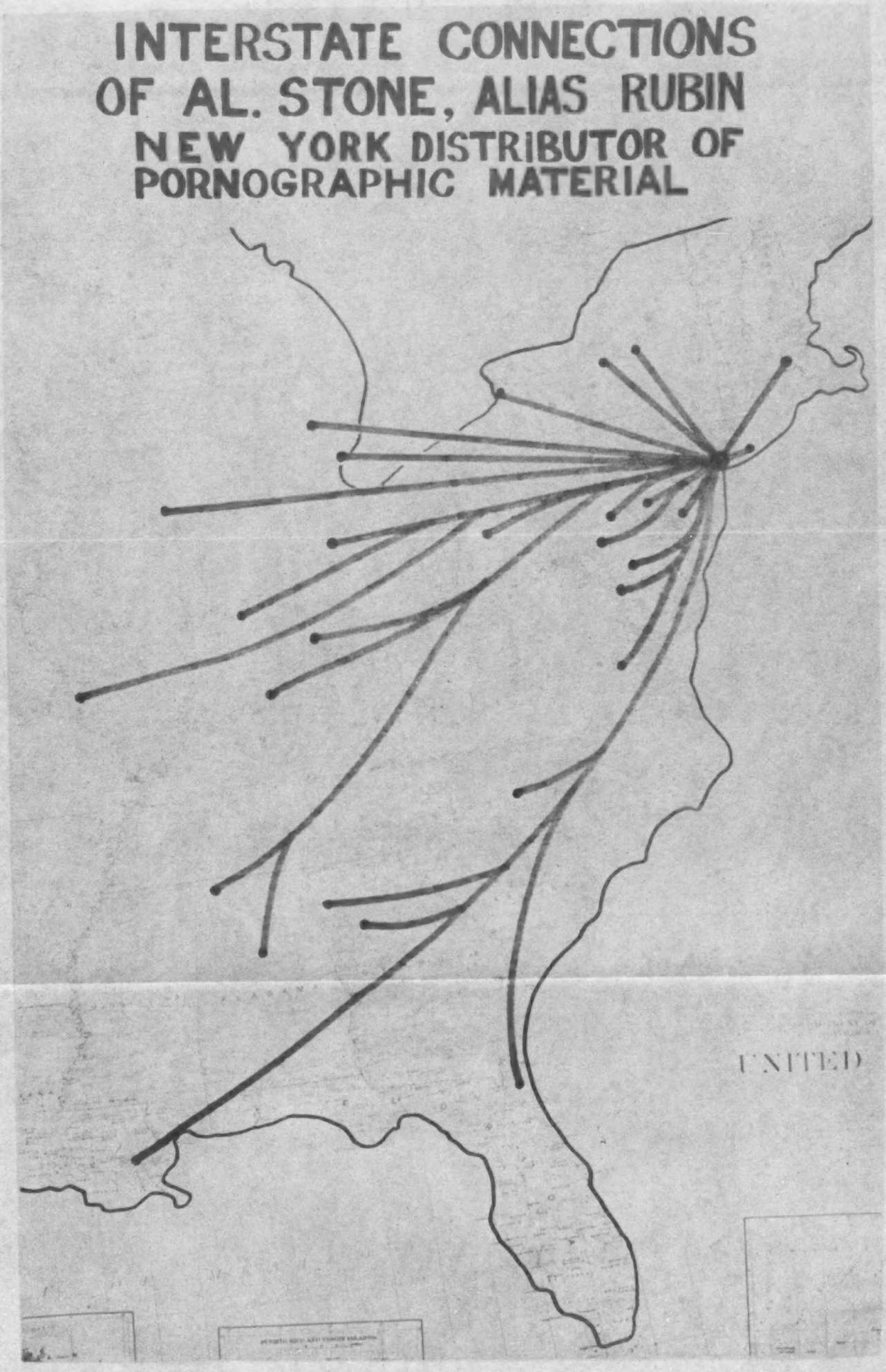
PHOTOGRAPHIC/WATERJAT
NEW YORK DISTRIBUTOR OF
OF ATLANTA, INC.
INTERSTATE CONNECTIONS



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it up, take it to Stone's supply point, load the car and redeliver it to the garage where it would be driven away by the customer.

Prior to the enactment of the Public Law 95 the Federal Government had no jurisdiction over transporting obscene material by private conveyance across State lines and Stone was free to engage in his business without any interference from Federal enforcement agencies.

Stone refused to answer any questions during the subcommittee hearing, using the fifth amendment to the Constitution for his protection.

Lieutenant Ignatius Sheehan of the Chicago Police Department in his testimony before the subcommittee did tie Stone in with a Chicago dealer Frankie Lano alias Frank Mustari who was arrested in Chicago in 1954 with over $15,000 worth of pornography in his possession. Lano would drive to New York 4 times a month and purchase $2,000 worth of pornography from Stone. He would drive his automobile to Chicago and there sell the material at retail for approximately $5,000 resulting in profits of over $12,000 per month and sales of over $20,000 per month. This one dealer would thus account for the distribution of some $240,000 in pornographic material in the Chicago area each year.

Just prior to this report going to the printer, Stone was arrested in New York. His automobile contained 24,000 indecent comic books and 1,000 decks of cards in addition to 120 reels of motion picture film. The entire booty was valued at $11,000.

A map is shown that graphically illustrates the extent of Al Stone's operations throughout the United States.[9]

Simon Simring

Simon Simring of Miami, Fla., was the principal distributor of pornography in the southeastern section of the United States.

As a result of the questionnaires sent out by the subcommittee to chiefs of police regarding pornography we were informed by Police Chief T. E. Salley of Orangeburg, S. C., that a pornographer named Simon Simring had been arrested there on April 30, 1955.

Chief Salley forwarded to the staff of the subcommittee samples of the material that had been confiscated from Simring upon his arrest. The inventory of this seizure revealed 134 reels of 8 mm. and 16 mm. motion picture film, 1,276 folders of pornographic photographs with 12 photographs per folder, 512 folders of the same type photographs with 20 photographs per folder, 663 stereo slides, 1,900 color slides, 391 pornographic books, 567 latex "gadgets" and assorted other material all with a total value at retail of approximately $35,000.

In Simring's possession also was a road map of the Southeastern States with 171 cities marked with a circle, an address book containing 243 names of customers and a card index file containing 1,194 names in 21 States and Washington, D. C. Among the names in Simring's possession appeared such known dealers in pornography as Al Stone, Elmo "Red" Florence, Louis Shomer, Ike Dorfman and Stanley Jablonski. The material which Simring had in his possession was compared with material seized from others in every part of the United States and much of it was identical.

Simring has been arrested for dealing in obscene literature in Saint Petersburg, Fla., Atlanta, Ga., Johnson City, Tenn., and Knoxville, Tenn., in addition to his arrest in Orangeburg.

[9] Rubin, Abraham, see testimony, op. cit., pp. 149, 243, 260.

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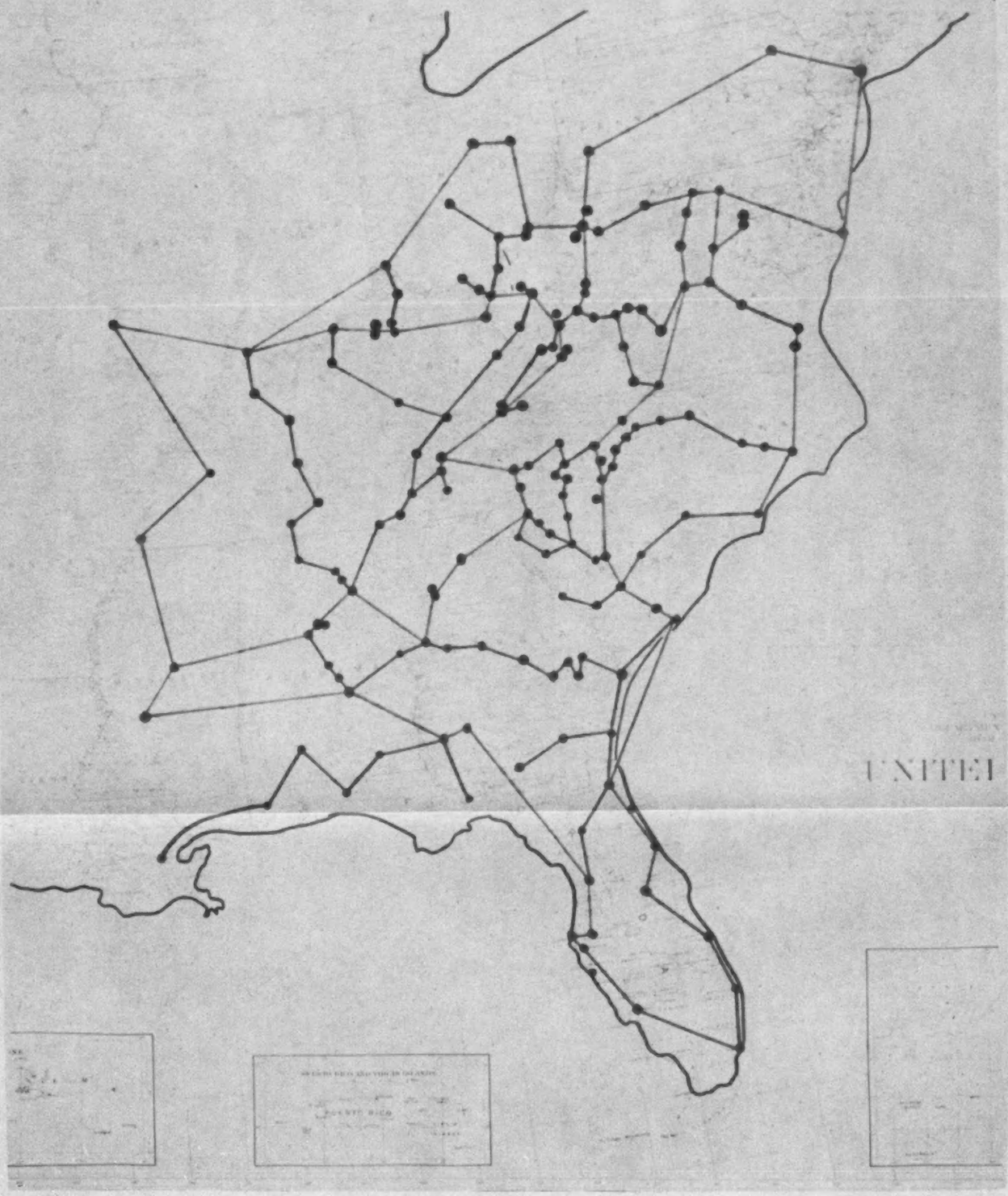
PORNOGRAPHIC MATERIALS SEIZED FROM SIMON SIMRING WHOSE ADDRESSES ARE 540 N.W. 39TH AVE., MIAMI, AND 3631 S.W. 20TH ST., MIAMI, FLORIDA
175 DISTRIBUTING POINTS IN 17 STATES

EASTERN U.S. CONTACTS
SMUTKRACKET BOSS IN THE SOUTH
(51 DISTRIBUTION POINTS IN 17 STATES)

EASTERN U. S. CONTACTS OF SIMON SIMRING, SMUT RACKET BOSS IN THE SOUTH

175 DISTRIBUTION POINTS IN 17 STATES



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The subcommittee staff endeavored to place Simring under subpena but he successfully evaded the United States Marshall.

A copy of a map showing the contacts of Simring in the Southeast is shown together with a photograph of the seizure of materials in Orangeburg, S. C.

Elmo "Red" Florence

Elmo "Red" Florence operated the ABC Film Co., post office box 11042, Houston 16, Tex., and is known to have customers for pornographic film and literature in 35 States, Canada and Mexico.

Through information reaching the subcommittee and forwarded to Sheriff C. V. "Buster" Kern at Houston, Tex., the ABC Film Co. was raided by officers of the sheriff's department. Confiscated at the time of this raid was a large quantity of photographic equipment including copying machines, cameras, projectors, splicers, etcetera, and more than 10,000 obscene photographs, 76 reels of obscene film, 119 pornographic books together with assorted other items of pornographic material.

Through correspondence and other data seized at the time of this raid the subcommittee established Florence's connection with two other known dealers in pornography that he supplied. These two dealers were Lewis C. Allen, 1710 S. Tyler Street, Dallas, Tex., and Wyman H. Parr, 317 East Seventh Street, Dallas, Tex. Allen and Parr were operating the Cliff Camera Co., 409 North Bishop, Dallas, Tex., as a cover for their distribution of pornographic material.

Parr had a record of dealing in obscene literature dating back to 1952 when he was arrested in Atlanta, Ga., and Allen had a record also dating to 1952 when he was arrested in Atlanta for exhibiting obscene films and having 100 reels of film in his possession. He was also arrested in 1955 in both Memphis, Tenn., and Dallas, Tex., for possession of obscene film and material.

A letter from Florence to Parr is shown to give an indication of the nature of the business that Florence transacted with Parr and Allen.

The size of business done by Florence through Parr and Allen is indicated from the statement of Capt. W. P. Huston, vice squad, Memphis Police Department who was responsible for the arrest of Allen in Memphis on January 11, 1955.

> At the time of the arrest of Mr. Allen we confiscated names of local citizens who he stated that he came to Memphis for the purpose of contacting each of them to sell or to rent obscene motion picture films. However, Mr. Allen was arrested before he had the opportunity to visit these citizens.
>
> At the time Mr. Allen was interrogated information was developed that all of the above subjects (names on list) had been dealing in obscene motion picture films with another salesman out of Texas whose name Mr. Allen did not reveal. Mr. Allen advised that the majority of the obscene motion picture films that he had in his possession were filmed in Mexico, Chicago, and North Carolina. Mr. Allen also advised that the sales from pornographic films is a yearly multimillion dollar business.

Florence in addition to selling pornographic film through various outlets engaged in a mail-order film rental business. The following schedule of film rentals was taken in the arrest of Florence.

8 MM & 16 MM MOVIE FILM SALES - RENTALS & EXCHANGE

OVER 15,000 FILM SUBJECTS AVAILABLE
For Information Call or Write

PAN-O RAM FILM SOUND OR SILENT

ABC FILM CO.

P. O. Box 11042 - Phone MUlberry 8427
HOUSTON 16, TEXAS

May 6, 1952

AIRCRAFT
BUILDING & CONSTRUCTION
CHEMISTRY
DOCTORS & MEDICAL FIELD
ENGINEERING (GENERAL)
FOODS & EDUCATION
GENERAL INFORMATION
HARBOR ENGINEERING
INDUSTRY (GENERAL)
JET PROPULSION
KEEPING OF FILM
LABOR & MANAGEMENT
METALS & MATERIALS
NATURAL RESOURCES
OFFICE MACHINES & TRAINING
PETROLEUM (GENERAL)
QUALITY OF FILMS
RELIGION
SPORTS (GENERAL)
TRANSPORTATION R. R., ETC
U. S. GOVERNMENT (GENERAL)
VOCATIONAL GUIDANCE
WELDING (GENERAL)
X-RAY
YOUTH-JUVENILE DELINQUENCY
ZOOLOGY

Parr:

Frank arrived Monday morning about 2 AM.

I deducted $100.00 from his bill to make up for my part of his $300.00 cash loss. He said that if it was alright with you, on your part, you could send me ten (10) reels of film to take care of your part of it. In turn I will send him the film in the next shipment to him.

He said he gave the arresting officers $100.00 each for not taking him to jail. Then after he had paid them the money, they told him they would like to have ten rolls of film for their library. He said he figured it would cost him less that way than going to jail and losing everything he had with him. As for the pay-off, he said he belived it was cheaper to give it to the officers as making bond, paying a lawyer, paying a fine and having to go back there for a trial would cost a lot more. Then too, they would have taken all of his merchandise. From experience, I know he is right.

I am enclosing $120.00 to pay for the 30 reels for replacement to Frank. That makes you owe me the 30 reels and they are paid for. Right? Then if you had rather send 10 reels to reimburse Frank on the $100.00 than to take the cash money out of your pocket, that will make a total of 40 reels for you to ship to me. Then that part will be straightened up.

I will take inventory tomorrow and send you a list of what I need. Frank left today and I haven't had a chance as yet to check up on what I need after stocking him up.

I am sending in an order tomorrow morning for 80,000' of raw stock. That will come to $600.00 and will more than take care of my bill with you. By then I will be ready for some more film in 8mm and 16mm both. Frank said he wants about 100 reels of 8mm 200' when you get the printer going and I will need some too.

Has the printer arrived as yet? Let me know by return mail.

Red.

C-14-151

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FILM SCHEDULE ON RENTALS (COPY)

3 reels film	$25.00 One Day
Each additional reel	$5.00 One Day.
3 reels film	$37.50 Two Days.
Each additional reel	$7.50 Two Days.
3 reels film	$50.00 Three Days.
Each additional reel	$10.00 Three Days.
3 reels film	$62.50 One Week.
Each additional reel	$12.50 One Week.

Transportation is paid both ways by consignee.
One day shipping time is allowed each way.
No charge for Sunday or Holiday.
Check or Money Order should be in by Shipping date or order will be sent C. O. D.
Three days advance notice of show insures future prompt deliveries.
Your delay in returning film may cause the next party to miss his show.
Delay in returning film promptly adds additional day rental.
Your promptness is appreciated.
Return film by carrier specified at top of return label.

Florence's list of customers also revealed a number of arcades, fun shops, novelty stores, and photo-supply stores. Investigations by the subcommittee have disclosed that these types of businesses are many times outlets for this particular type of material.

Florence was convicted on July 11, 1955, in Houston, Tex., on an obscene-material-possession charge and fined $2,000 and sentenced to 6 months in prison. He appealed the conviction and posted bond the same day. On July 12, 1955, the United States Post Office Department arrested him for sending obscene material through the mails and he posted $10,000 bond. On July 14, 1955, Florence committed suicide by walking between the cars of a moving freight train.

Edward Mishkin

Edward Mishkin, 53 Algonquin Road, Yonkers, N. Y., is a partner with Louis Finkelstein, Englewood, N. J., in the operation of three book stores in New York City. These stores are the Times Square Book Bazaar, Little Book Exchange, and the Kingsley Book Store all located in the Times Square area of New York City.

Through these stores Mishkin has an outlet for the large quantity of pornographic material which he produces. Most of the material handled in these stores is of the fetish, sadist, masochist type of material.

One of the worst books produced by Mishkin was a series of pictures showing many forms of whipping, beating, bondage, and similar perverted acts sold under the title of "Nights of Horror." After a juvenile thrill slayer in Brooklyn, N. Y., confessed that all of his ideas for torturing and killing an elderly man were taken from one of these books the police department confiscated 2,600 copies in one of Mishkin's stores.

In another raid on one of the stores operated by Mishkin, the Harmony Book Shop, detectives from the district attorney's office confiscated over $50,000 worth of pornographic material.

The subcommittee discovered through its investigation of Mishkin how printed pornographic material is produced.

Mishkin employed several artists to produce the drawings for his books. These drawings he in turn had put on plates for printing.

By use of 3 or 4 different printers, each producing a segment of each book, Mishkin was allowed to divide his operation and attract less attention.

One of the printers for Nights of Horror was Eugene Malletta who owned and operated Pilgrim Press, 103–43 Lefferts Boulevard, Richmond Hill, N. Y.

Malletta had received from Mishkin plates for 20 pages of one book. From these plates he printed thousands of copies of these pages which were then sent to Mishkin. In a period from 1949 to 1953 Malletta had risen in net worth to over $40,000 from a start of borrowing capital to begin business.

Mishkin is reputed to gross over $1,500,000 yearly from the pornography traffic. He is known to have shipped in large quantities to many parts of the United States and also to have sent two associates to Birmingham, Ala., with a large load of pornographic material in a private conveyance.

On the day that Mishkin appeared before the subcommittee in New York his Kingsley Book Store shipped by Railway Express to Minneapolis Minn. a large quantity of pornographic books. The police of Minneapolis were notified by members of the subcommittee staff and three persons were arrested upon delivery of this material on June 2, 1955. One of the arrested persons admitted that the material had been purchased from Mishkin and that they had done business with him before.

Mishkin's practice was to rotate his shipments among the more than 30 receiving stations for Railway Express in New York so as to minimize the chances of interception and allay suspicion.

Many of the smaller dealers in pornography questioned by subcommittee staff investigators refused to state whether they had done business with Mishkin or not because they stated they were afraid of reprisal.[10]

Louis Shomer

Louis Shomer, 1541 East Fifth Street, Brooklyn, N. Y. is another large dealer in pornographic material whose name appears in connection with almost every list in the subcommittee's possession and who is also known to many of the known pornographers questioned by the subcommittee.

In his testimony before the subcommittee in New York Shomer admitted that in 1940 he had been a photographer engaged in photographing indecent acts of perversion for a Jack Brotman. He also admitted a subsequent arrest in Portsmouth, Va. when a quantity of obscene material was found in the automobile in which he was riding. The automobile was registered in the name of Ben Riceburg of New York City who was also arrested at the same time.

Shomer was known by the subcommittee to have sold a large amount of pornographic film and photographs to Edgar Maynard Levy of Washington, D. C. Levy was arrested by the Connecticut State Police with this material in his automobile after it had been transferred to him by Shomer who was being observed by a Federal Bureau of Investigation agent.

Harry Kunkelman of Akron, Ohio, a photographer, was also known to have developed and printed large numbers of reels of pornographic

[10] Mishkin, Eddie, see testimony, op. cit., pp. 158, 239.

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film for Shomer. Kunkelman admitted to staff investigators that Shomer had been to his home on at least 12 to 15 occasions and had furnished negatives for processing copies of films. He had processed as many as 200 reels of obscene film for Shomer and his usual price for this processing was $7.50 per reel. Kunkelman stated that Shomer always carried large sums of money and that he used $1,000 bills to tempt him by saying, "Harry, you can have that kind of money if you work for me." [11]

Clarence Anderson

Clarence Anderson, Anderson's Film Rental Service, Elgin, Ill., was one of the largest distributors of pornographic film in the Midwestern area of the Nation. The Illinois State police with the police of Chicago, Ill., conducted a raid on Anderson's place of business in 1954 and seized 1,000 reels of negatives of pornographic film. Each of these reels was of a different subject matter and could be used to produce unlimited amounts of positive films. In addition to these 1,000 negatives there was also seized 1,500 reels of raw film and 600 decks of pornographic playing cards. It required two stake body trucks to remove all of the material to police headquarters. The estimated wholesale value of this material was $25,000 with a possible retail value of over $100,000.

Through this raid it was established that many of the films had been made in Chicago and at least one was determined to have been made in the Oakwood Hotel, 746 Oakwood Boulevard, Chicago, Ill., by Edgar Flagg, manager of the hotel who hired the girls to appear in these films and did the photography himself. He, after the film was made, sent the film to Anderson in Elgin, Ill., who in turn made prints of this film for sale.

Anderson operated almost exclusively by distributing his film and pornographic material in a private conveyance so as to escape Federal prosecution.

Anderson was sentenced to 2 years probation when arraigned in the Geneva County, Ill., court. While still on probation he was again arrested in Walworth County, Wis., with a large quantity of film and was fined $750. Although the Illinois officials were notified of this parole violation no action was taken against Anderson.

Irving Klaw

Irving Klaw, 212 East 14th Street, New York, N. Y., is the self-styled "The Pin-Up King" and deals exclusively in fetish, bondage, whipping, torture, and related type of pornographic material.

Klaw, in his appearance before the subcommittee, invoked the fifth amendment and refused to testify to any question other than his name and address.

Klaw does an extremely large business in supplying photographs, drawings, motion pictures, and books dealing with certain types of perversion and is estimated to do an annual gross business in excess of $1½ million. His material is sold on many newsstands throughout the country and through mail order.

It is rather difficult, unless one has an understanding of the particular perversion involved, for the average person to completely understand and notice the pornographic nature of Klaw's material. The models for this material are usually scantily clad but are shown in

[11] Shomer, Louis, see testimony, op. cit. ,pp. 178, 265.

various poses of being whipped, bound, tortured, spanked, or wearing iron or leather corsets, long black leather gloves, or tight fitting shoes with extremely long heels.

From his office in New York Klaw sends out a catalog entitled "Cartoon and Model Parade" priced at 50 cents. This is a 50-page catalog completely filled with various advertisements of the material he has for sale. The single photographs displayed in this catalog sell at prices ranging from 15 cents to 50 cents each. Also advertised are booklets that range in price up to $14. The motion pictures are sold at prices ranging up to $15 per 100 feet of film.

The following is a description of the material offered in one of the catalogs issued by Klaw:

> *Beauties in bondage.*—Announcing our new bondage movie called beauties in bondage featuring Annette Du Val and tall buxom Gloria Pall. This movie shows Annette tying up Gloria to the pole of our Wooden Gibbett, and after Gloria is free, she is shown tying up Annette to a wooden bench in revenge. This movie shows one girl in patent leather high heel shoes and the other model in street shoes with several close-ups in each part of the movie.
>
> Here is our latest series of specially posed model photos called the R-I featuring popular models Roz Greenwood, Birdie Robbins, and Diana Jamee. All poses are size 4 x 5 and these same poses can be enlarged to size 8 x 10 at $1.00 each enlargement. The R-I series consists of 12 different Bound and Gagged poses at price of 40¢ each. Also 4 different poses of model Diana Jamee shackled in wrist cuffs and leg chains at 40¢ each and 7 poses of Roz Greenwood shackled in copy of antique chained chastity belt and leg cuffs at 40¢ each pose. There are 10 different spanking poses (3 while bound) at 40¢ each. Also have 9 different Fighting Girl poses at 25¢ each pose. And there are 23 different poses of models in 6 inch High Heeled Patent Leather Shoes and Lingerie at 25¢ each pose.[12]

These are but 2 of the more than 100 advertisements appearing in this one issue of the Klaw catalog.

The subcommittee, the Post Office Department, and many local police departments have received complaints from parents that this catalog and the material advertised therein was coming into the hands of juveniles.

During the hearings it was developed that one of the illustrations in the catalog was almost identical to an artist's sketch in a Miami, Fla., newspaper that portrayed how a 17-year-old Coral Gables, Fla., youth was found murdered in August 1954. The youth, a victim of a sex slaying based on this type of perversion, was found nude, hanging from a wooden crossbar between two trees. His feet were bound by rope and he was hanging from his knees.

Although many attempts have been made by the Post Office Department to bar the type of material sold by Klaw from the mail, he is still doing a large business throughout the Nation.

Andy Bruckner

Police from Jersey City, N. J., furnished the subcommittee with a typical example of the uses to which movie film of the pornographic type are put. They testified during the hearing in New York City that they were informed in April 1954 that a man was showing such film to minors. Going to the basement of an apartment house they found a group of 6 youths under 21 waiting for the showing of 6 reels of film by a Joseph Cinnelli, age 27. Cinnelli had four more reels at his home which the police also confiscated.

[12] Klaw, Irving, see testimony, op. cit., pp. 229–239.

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Questioning elicited the information that Cinnelli's source of supply for these films was from an itinerant peddler operating from a New York City hotel room.

Through a telephone call the New Jersey police lured the peddler into their jurisdiction where he was arrested with a large suitcase packed with miscellaneous items of pornography. A search of his hotel room with the cooperation of the New York City police produced additional supplies of pornographic materials.

The peddler, one Andy Bruckner, estimated his weekly income at $300.

George Fodor

George Fodor, 3710 39th Street N., St. Petersburg, Fla., formerly lived in Washington, D. C., and resided in the 500 block of Buchanan Street NW.

Fodor in 1954 was a large distributor of pornographic material in the Washington, D. C., area. He is known to have had over 300 customers at various small stores throughout Washington whom he called upon regularly.

Most of the material sold by Fodor was bought by him from Ike Dorfman in Baltimore, Md., with Fodor making his own pickups of the material. Fodor is known to have made as many as 2 to 3 trips per week to Baltimore to purchase his pornographic material and to have attempted at 1 time to make a direct purchase from Al Stone and Lou Shomer in New York City.

The pornographic film that was shown to the 197 juveniles at the Don Pallini Dance Studio in Washington was furnished by Fodor to Phillip Stone who was showing the film.

Fodor's income for the year 1954 was $50,613 as shown by his tax returns which gives some indication of the profits derived from the sale of this material.[13]

Abe Rotto

Abe Rotto, 55 Linden Boulevard, Brooklyn, N. Y., is a known distributor of pornographic material in the New York area.

His record shows two arrests for possession of obscene material.

Vast amounts of pornographic literature valued at thousands of dollars were seized in the arrests of Rotto. He is known to have associated with such dealers as Al Stone and Arthur Herman Sobel in the pornography racket.[14]

Vincent Kucera

Vincent Kucera, 7101 West 40th Street, Stickney, Ill., was arrested at his home at 10:15 p. m., on June 22, 1955, by the Sheriff's Department of Cook County. In his custody, were 133 16-millimeter film, 42 8-millimeter film, and a total of 175 negatives. Also found in his possession were 50 positives which were ready for sale, making a total of 225. Information disclosed to staff members of the subcommittee indicated that Kucera's home was used for showing pornographic films, since his basement was remodeled for a playroom and could seat as many as 60 at one time.

[13] Fodor, George, see testimony, op. cit., pp. 154-157.
[14] Rotto, Abe, see testimony, op. cit., pp. 172-175.

Kucera was believed to be working with Clarence Anderson, of Elgin, Ill., one of the largest midwestern distributors of pornographic materials.

Kucera had received 13 orders of raw film from the W. J. German Co., Chicago, Ill., between January 1 and July 1, 1955. These orders totaled 323,500 feet of 16-millimeter and 8-millimeter film, enough to process approximately 1,000 reels of movies with an approximate retail value in the pornography market of $20,000.

The case against Kucera was dismissed before Judge Irving Listerman in Cook County, Ill., on a motion to quash the search warrant for improper execution.

Arthur Herman Sobel

Arthur Herman Sobel, of 319 West 48th Street, New York, N. Y., was arrested on May 8, 1954, in Lincoln, R. I., for possession of obscene literature. Sobel was a large distributor of pornography in the New England area.

At the time of his arrest he had in his possession 918 packages of 4- by 5-inch pornographic photographs, 6 reels of 16-millimeter film, 13 reels of 8-millimeter film, 20 illustrated obscene books, 9 obscene novels and a large quantity of art, nudist, and sex magazines.

Sobel was charged with possession of obscene literature and fined $1,000.

The material in Sobel's possession at the time of his arrest was identical with material found in the possession of other distributors in the New York area including Al Stone, Louis Shomer and also similar to material seized from Simon Simring in the Southeast and Elmo "Red" Florence in the Southwest indicating that the material had come from the same source of supply.[15]

Alfred T. Selmer

Alfred T. Selmer, of 1136 South Market Street, Nanticoke, Pa., was apprehended in Washington, D. C., in early June of 1950 at which time he was found to be in possession of numerous reels of obscene and indecent film from which, upon his own admission, he planned to reproduce 80,000 feet of film. Over $1,400 in cash was found in his possession which he admitted was to be used for the purpose of reproducing pornographic film and material.

All of the film featured boys and girls in their early teens in indecent, perverted and abnormal sexual acts, some with animals participating.

From further information obtained from Selmer and others, as well as notebooks confiscated at the time of his arrest, it was ascertained that Selmer had been contacting photographers employed by the United States Government for the alleged purpose of inducing them to reproduce obscene films.

Herman Solomon and William Daymont

It affords the subcommittee great pleasure to include in this report a résumé of a successful prosecution in 1955 by the United States attorney at Baltimore, Md., George C. Doub, and his assistant, Mr. Robert R. Bair, of one of the so-called borderline cases in pornographic literature and pictures. The prosecutors and the Federal Bureau of Investigation are to be commended for their vigorous and

[15] Sobel, Arthur Herman, see testimony, op. cit., pp. 161–172.

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aggressive action which established a fine legal precedent for the guidance of prosecutors and the courts in other Federal jurisdictions.

The principal defendants were Herman Solomon and William Daymont who operated their business under the trade name of "Soloday," Baltimore, Md.

Testimony before the subcommittee revealed that they processed and sold approximately 2 million photographs a year. All of these photographs were in sets and the subjects were stripping nudes, flagellation poses and bondage poses.

The subcommittee obtained records showing 291 shipments by Soloday via Railway Express that showed a c. o. d. or declared value of $30,000. The retail value of these shipments exceeded $250,000. In addition to these wholesale shipments, sales were also discovered that were made direct to customers at the Baltimore address of Soloday.

Mr. Robert R. Bair, assistant United States attorney in Baltimore testified as follows concerning the "Soloday" operation:

I might give you some background information about what we know about Solomon and Daymont, as well as what we know about Passetti and Tayfoia.

Of those four people, Herman Solomon and William Daymont were primarily responsible for the business and the success of Soloday, which is obviously a combination of the two names, Solomon and Daymont.

Solomon was the photographer. He had an apartment in New York City at 224 West 49th Street, where he also had a studio. There he took photographs of various models.

He then delivered the negatives to William Daymont at 35 Harford Road in Baltimore, where they were developed and where the photographs were printed from the negatives.

Louis D. Passetti was employed by Solomon at about $65 a week to help in packaging the photographs.

Ruby Martin Tayfoia assisted William Daymont in Baltimore in the printing of the photographs. Because of her small connection with the matter, the indictment against her was dismissed and only the three men were tried.

What we know about Solomon and Daymont, we know primarily from the mouths of Passetti and Tayfoia. Mr. Passetti met Solomon in San Francisco in 1949, and was employed by him that year to package photographs. While he was in the hospital there he was advised that the police had raided the place of business in San Francisco, and that was the last time he saw Solomon until September 1953, when he again began working for Soloday.

Miss Tayfoia was about 17 years of age when she first met Solomon and Daymont in Hollywood, Calif., in about January 1952. She went to work for them there as a model, and after a month or two of posing she worked for them as a printer of photographs.

Just a few months prior to that, in October 1951, both Solomon and Daymont were arrested by the Los Angeles Police Department on a charge of lewd photographs, and Solomon received, in all, 60 days suspended sentence, and a total of $200 in fines.

Daymont at that time received 1 year's probation, and a total of $150 in fines.

In May of 1952, while within the probationary period of Daymont, the business of "Soloday" moved from Santa Monica, Calif., to the Harford Road address in Baltimore, Md. We know at that time, from September 1952 until they were arrested in December 1953, they operated that business in Baltimore.

Solomon would go to New York about 4 days a week. He would then drive to Baltimore and remain in Baltimore about 3 days a week conducting this business.

Daymont, I believe, remained in Baltimore.

As to the question of obtaining models, they would obtain them from night clubs and burlesque houses, et cetera. They would offer them something like $10 for a couple of hours work in posing; and, as I say, a good bit of that was done in a photographic studio in New York by Solomon.

However, a number of their consignees over the country, one in Cleveland in particular, we know offered to get them models, and Daymont and Solomon would go out to these various places and photograph other models in studios in these various cities.

Going to the trial which took place in Baltimore, Solomon, Daymont, and Passetti were tried on an 11 count indictment on April 25, 1955, before Judge W. Calvin Chestnut. The jury was an all-male jury. However, they returned a verdict of guilty; and Solomon was sentenced to 90 days in jail and $1,000 fine.

Daymont was sentenced to 90 days in jail and $1,000 fine.

Passetti was fined $500.

The issue of the depositing for interstate shipment was stipulated out of the case by counsel, so that the only issue at that trial was the issue of obscenity.

Establishments to which the 291 shipments were consigned by Solomon and Daymont were located in a number of States. Following is the record of the shipments: [18]

Consignee	Dates		Number of shipments	C. o. d. or declared value
	Between—	And—		
Washington Duke's Cigar Stand, Washington Duke's Hotel, Durham, N. C	Sept. 8, 1952	Apr. 15, 1953	4	$70.00
The Galley, 347 North Clark St., Chicago, Ill	Dec. 3, 1952	Dec. 13, 1953	4	227.50
General News Stand, 125 East 9th St., Dayton, Ohio	Dec. 12, 1952	Dec. 22, 1952	2	270.00
Economy Distribution, 328 West Superior, Cleveland, Ohio	Oct. 13, 1952	Jan. 25, 1953	4	530.00
Capital News, 1709 East 9th St., Cleveland, Ohio	Dec. 19, 1952	Dec. 13, 1953	7	1,156.75
Capital Novelty Co., 507 West St. Clair, Toledo, Ohio	Oct. 20, 1952	June 8, 1953	10	961.00
Kay's Bookstore, 1374 East 9th St., Cleveland, Ohio	Dec. 3, 1952	Dec. 13, 1953	11	1,271.60
Acme News Co., Main and Exchange, Fort Worth, Tex	Nov. 24, 1952	Nov. 10, 1953	6	758.00
Thomas Novelty Co., 814 Scott Ave., Wichita Falls, Tex	Dec. 3, 1952	June 8, 1953	3	140.00
H. & M. Magazine Exchange, 1852 Larimes, Denver, Colo	Aug. 14, 1952	Aug. 27, 1953	15	1,677.50
Western States Novelty Co., 123 South Union Ave., Pueblo, Colo	Sept. 17, 1952	Nov. 10, 1953	17	1,695.50
Arrowhead Novelty, 221 West 16th St., Cheyenne, Wyo	Aug. 14, 1952	Mar. 25, 1953	2	120.00
Miller Novelty Co., 511 Woodward, Detroit, Mich	Oct. 31, 1952	Dec. 22, 1952	6	429.00
	Jan. 25, 1953	Nov. 10, 1953	8	1,150.50
City Hall Cigar & Novelty, 113 Lyons St. NW., Grand Rapids, Mich	Nov. 29, 1952	Dec. 13, 1953	8	535.00
Star News Stand, 613½ Fannin, Houston, Tex	Oct. 24, 1952	Dec. 13, 1953	9	1,086.00
Satisfactory Distribution Co., 501 M. & M. Building, Houston, Tex	Dec. 13, 1953		3	347.50
Harry Stein, Indianapolis, Ind	Nov. 2, 1953		2	200.00
Indianapolis Latex Co., 141 Illinois St., Indianapolis, Ind	Nov. 2, 1953		1	200.00
Siegal News, 1½ West 12th St., Kansas City, Mo	Oct. 9, 1952	Dec. 13, 1953	10	1,445.00
D & C News Co., 441 South Main, Los Angeles, Calif	Dec. 13, 1953	Oct. 18, 1952	8	590.00
Wm. Shatzsky, 330 South Olive St., Los Angeles, Calif	Mar. 25, 1953	Sept. 7, 1953	2	150.00
Joyland Novelty Co., 421 South Main, Los Angeles, Calif	Oct. 20, 1952	Dec. 13, 1953	9	1,713.00
Tom Libman, 331 South Main, Los Angeles, Calif	Oct. 18, 1952	Dec. 13, 1953	10	545.50
E. Smith, 536 South Main St., Los Angeles, Calif	Oct. 18, 1952	Dec. 13, 1953	12	2,115.00
G. & U. Newstand, 516 South Main St., Los Angeles, Calif	Apr. 15, 1953	Dec. 13, 1953	7	1,250.20
General Newstand, 5th and Hall, southeast corner, Los Angeles, Calif	June 8, 1953	Sept. 20, 1953	2	190.00
Star News Agency, 526 South Broadway, Los Angeles, Calif	Sept. 29, 1953		1	60.00
Crescent News, 218 West 8th St., Los Angeles, Calif	May 19, 1953	Sept. 29, 1953	3	205.00
Ben's Fun House, 425 Deadrick, Nashville, Tenn	Sept. 17, 1952	Jan. 4, 1953	3	150.00
Kellner Specialties, 3018 West Hayes Avenue, Milwaukee, Wis	Dec. 19, 1952		1	25.00
Eagle Novelty, 21 Second Ave. East, Duluth, Minn	Nov. 29, 1952		1	70.00
Jax Sales Co., 406 Canal St., New Orleans, La	Oct. 9, 1953	Dec. 12, 1953	2	65.00
Charles Relli, 119-18 178th Pl., St. Albans, N. Y	Nov. 16, 1953		8	1,100.00
Pinkey's Novelty, 416 West 7th St., Des Moines, Iowa	Sept. 17, 1952	Aug. 27, 1953	10	414.00
Earl's Smoke Shop, 1036 South Broadway, Oakland-Calif	Oct. 12, 1952	Apr. 15, 1953	9	843.09
City News & Novelty Co., 1116 Market St., San Francisco, Calif	May 19, 1953	Nov. 10, 1953	17	2,446.75
Star Book Shop, 70 Fourth St., San Francisco, Calif	Oct. 8, 1952	Mar. 25, 1953	17	867.50
Payless News Co., 769 Market St., San Francisco, Calif	Dec. 19, 1952	Feb. 23, 1953	3	332.80
Johnny O'Rourke, 110 Market St., San Francisco, Calif	Oct. 24, 1952	Jan. 2, 1953	5	590.50
Johnny O'Rourke, 110 Market St., San Francisco, Calif	Jan. 25, 1953	Mar. 25, 1953	4	394.00

[18] Bair, Robert R., see testimony, op. cit., pp. 141-149.

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Consignee	Dates		Number of shipments	C. o. d. or declared value
	Between—	And—		
Lyric Theater, 212 18th St., Sacramento, Calif	Dec. 19, 1952		1	$18.60
Frank's Magic, 1220 K St., Sacramento, Calif	Mar. 18, 1953	Dec. 13, 1953	2	250.00
Playlands Amusements, 1352 Pacific Ave., Tacoma, Wash	Aug. 8, 1952	Sept. 8, 1952	2	75.00
Amitine Book Store, 622 Pine St., St. Louis, Mo	Oct. 1, 1952	Oct. 31, 1952	3	300.00
Do	Nov. 10, 1952	Sept. 29, 1953	15	981.50
Total			291	30,013.20

The subcommittee also found some very illuminating correspondence that passed between one of the customers and the Soloday operation. These excerpts effectively dispel any bland claim by dealers in this type of insidious material that it is "art for art's sake:"

July 19, 1953: "Phil got himself in a jam lately. Some 14-year-old girl was showing nude pictures of herself, which she claims to have posed for in some bar here in town. One of her viewers happened to be one of the vice boys. Phil's shop on Santa Monica Boulevard is now closed as a result."

October 7, 1953: "Last week the police raided every one of us, not once, but 3 consecutive days. They hunted and searched through everything in the place and apologized each time in my case. The others didn't fare so well. With the exception of myself and D. & C. everyone retailing pictures in Los Angeles were pinched. Most of the arrests were for pictures in which the model's hands or arms are touching or pressing the breast. As soon as the pictures come in I make sure that no such pictures remain in the sets. If your shipment had arrived a few days earlier, with the strippers, I'd have been in the clink too. From the notation on the strip package I see that you planned to ship it to my dwelling but forgot about it at the last minute. You see the problem it creates for me so please ship them, that is any future strips, to 330 South Olive Street only. Even though your latest bunch of pictures are better than they have ever been saleswise, the purchasers, those degenerates who go for monstrous breast and who number at least 7 out of 10, are complaining."

The size of the operations of "Soloday" is shown by the following picture and map which outline the interstate nature of this business.

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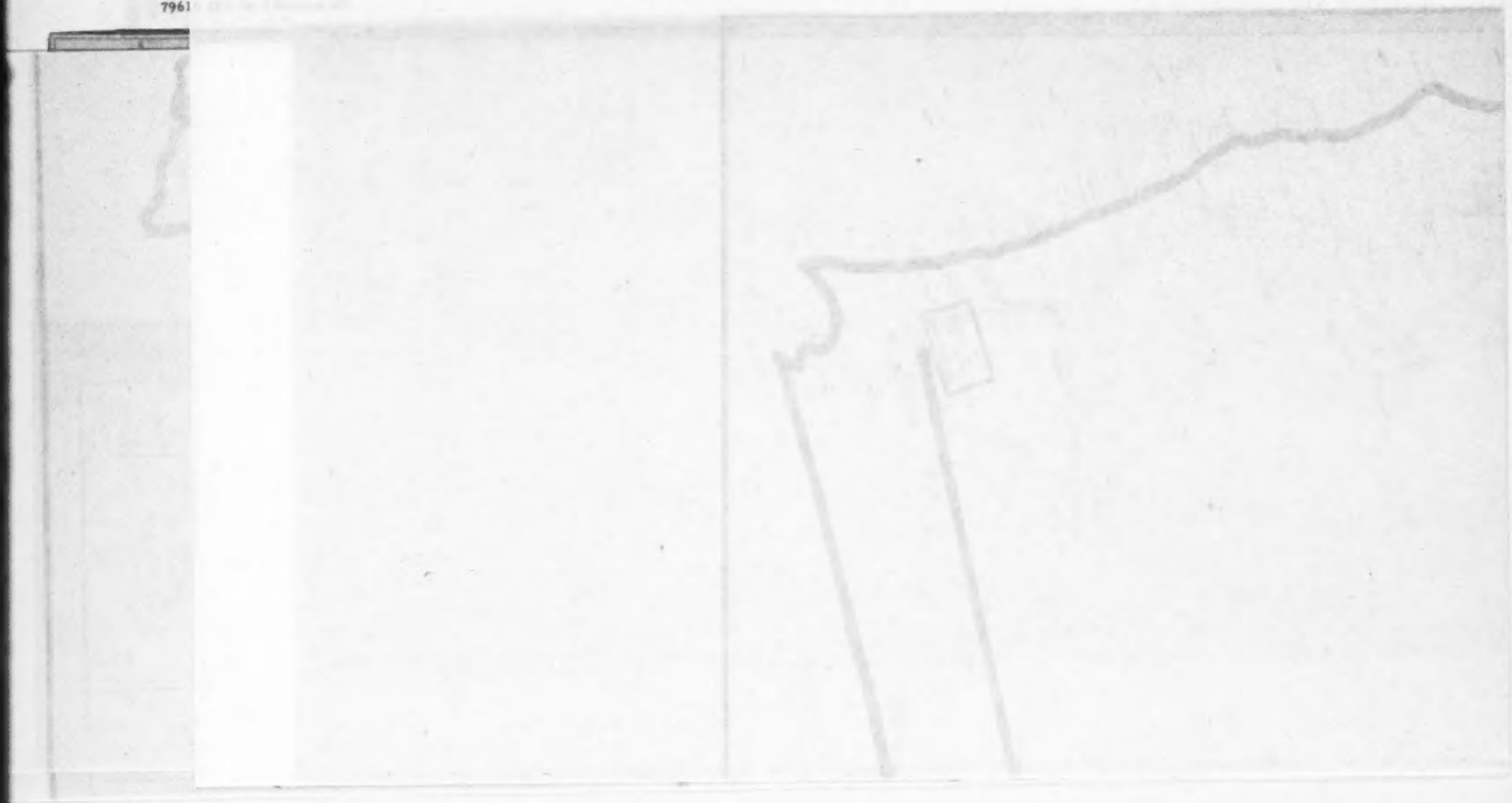
PHOTOGRAPH OF SEIZURES BY U.S. GOVERNMENT OF 87,960 PIECES OF PORNOGRAPHY. NUDES AND BONDAGE PHOTOS OF WOMEN. SHIPMENTS WERE MADE TWICE A WEEK FROM BALTIMORE TO 45 OR MORE OUTLETS IN THE U.S. BY "SOLODAY", BALTIMORE, MD. RETAIL TRAFFIC OF "SOLODAY" SENT BY AMERICAN EXPRESS C.O.D. AMOUNTED TO APPROXIMATELY A QUARTER OF A MILLION DOLLARS A YEAR. "SOLODAY" IS NOT THE LARGEST DISTRIBUTOR.



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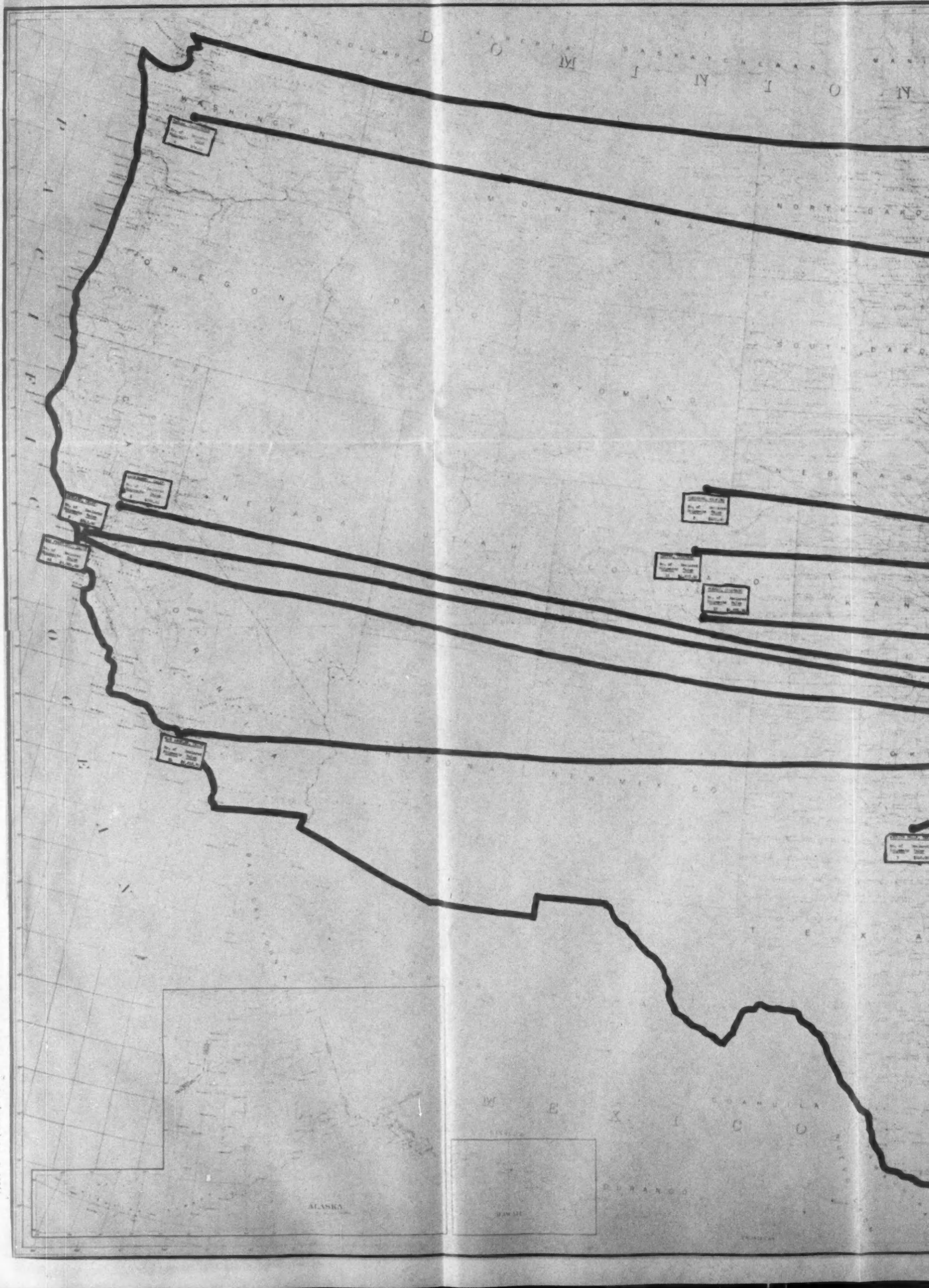
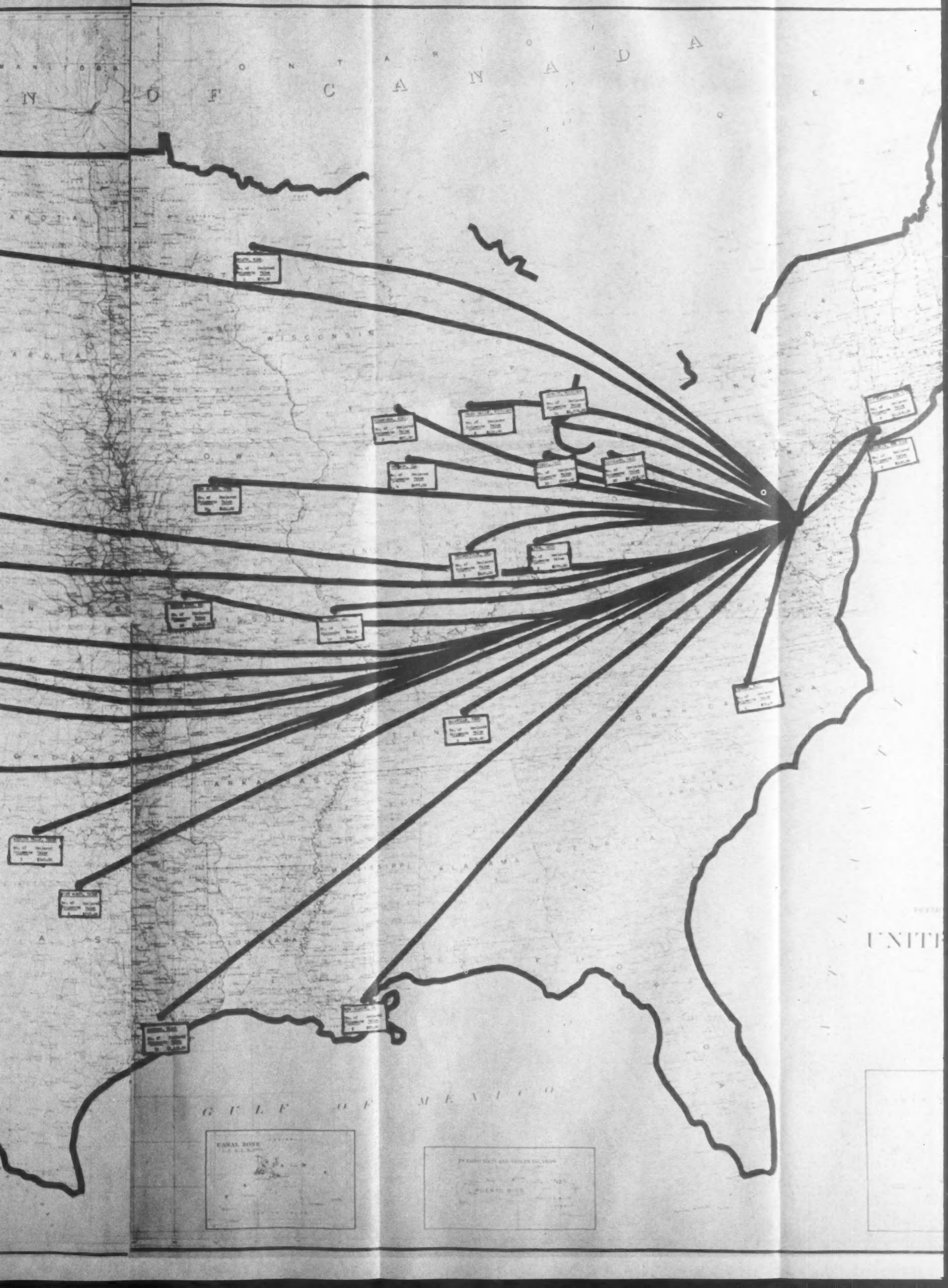
291 RAILWAY EXPRE
C.O.D. OR DEC
RETAIL



TION "SOLODAY"
PRESS SHIPMENTS IN 1953
ECLARED VALUE--$30,000.00
AIL VALUE--$250,000.00



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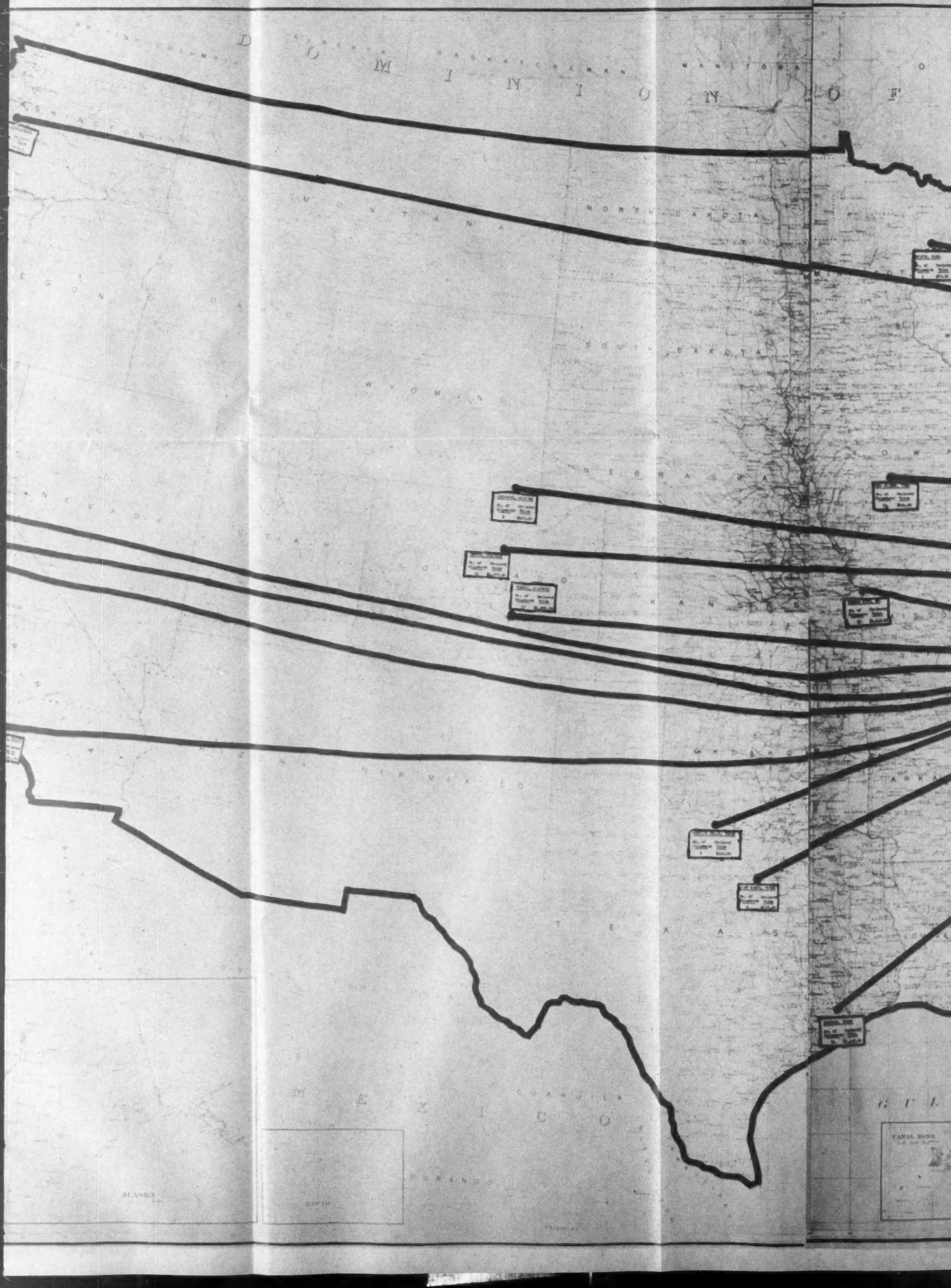
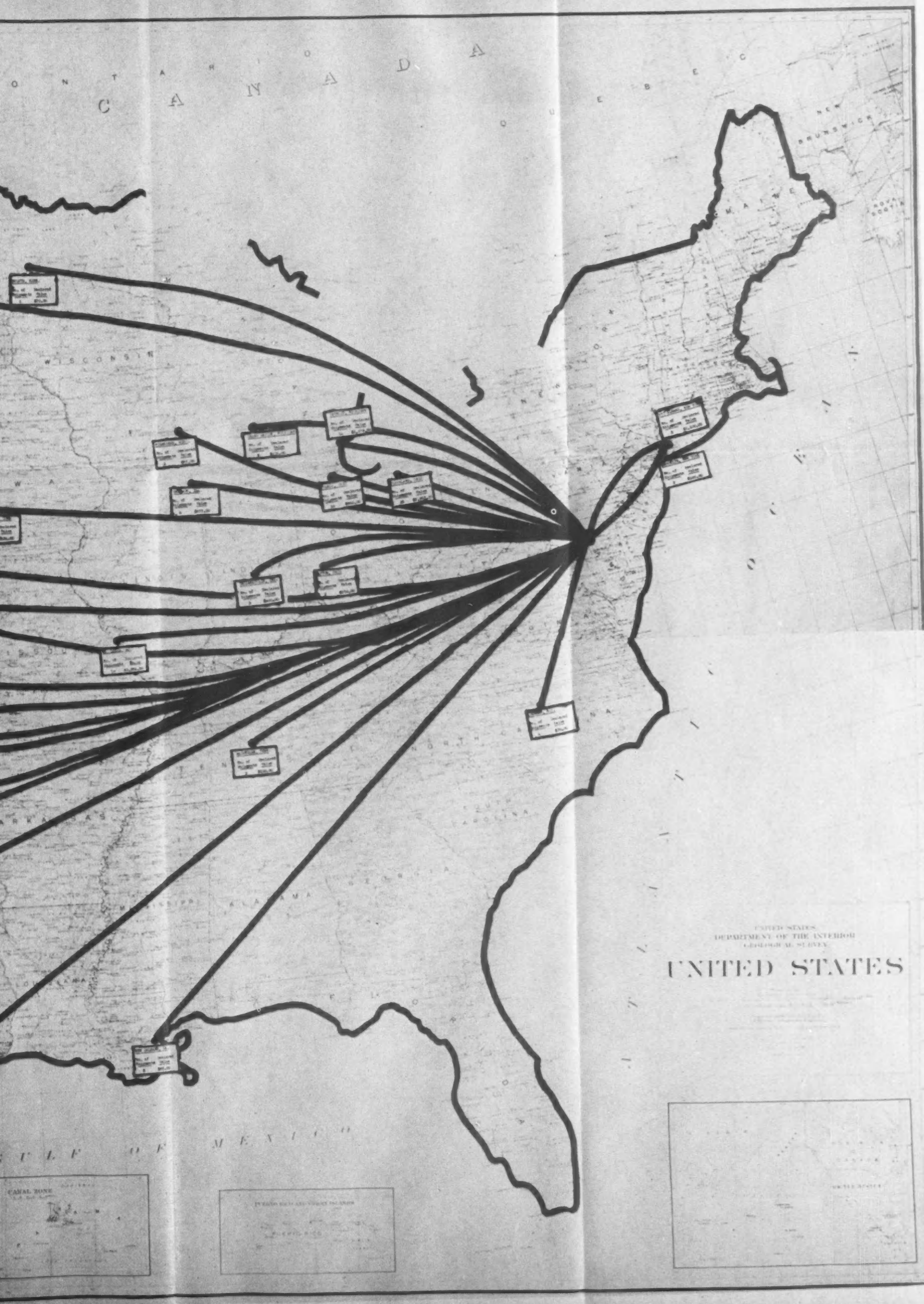
291 RAILWAY EXPRESS SHIPME

C.O.D. OR DECLARED VA

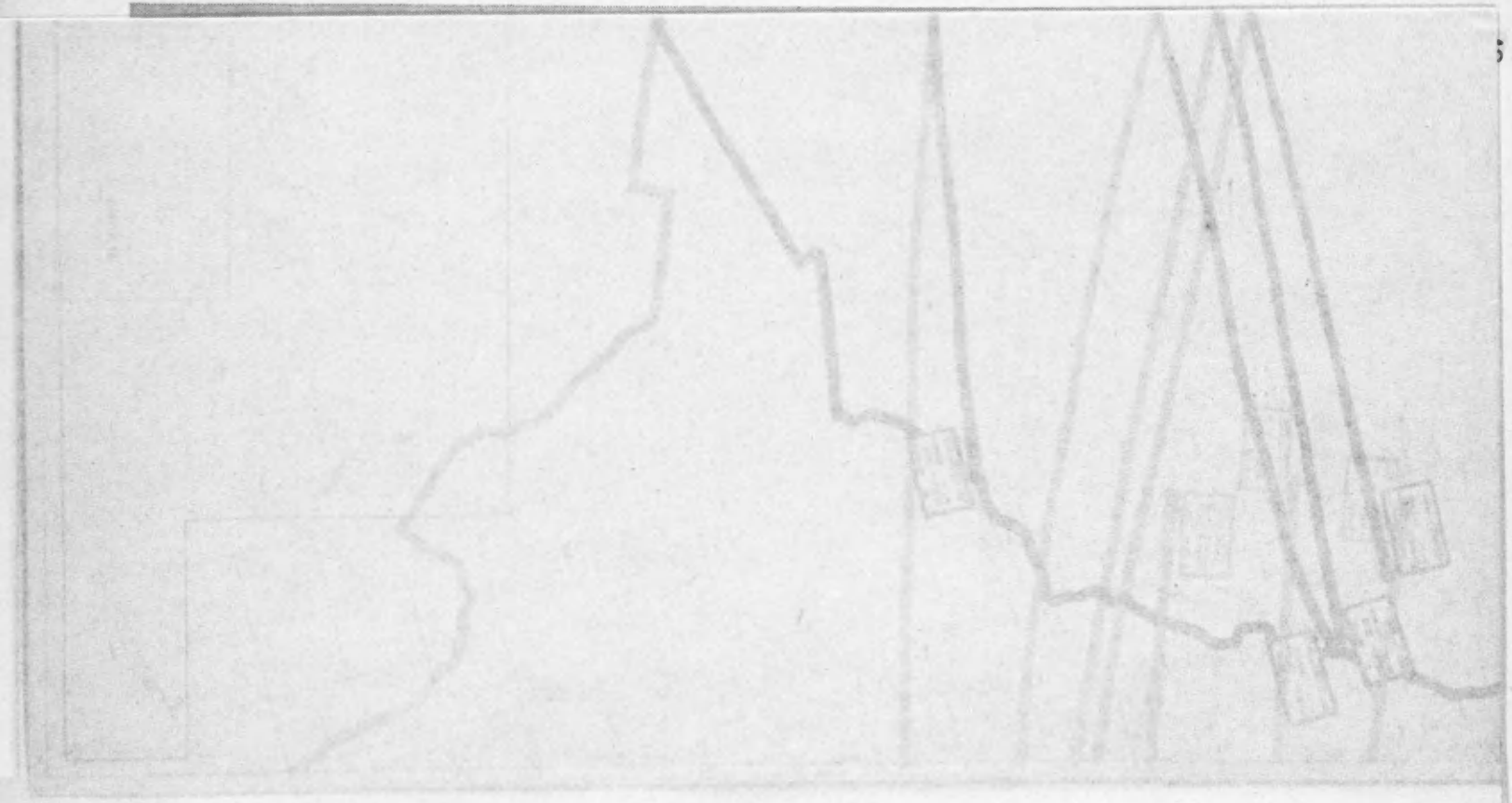
RETAIL VALUE--$



LODAY"
PMENTS IN 1953
VALUE -- $30,000.00
- $250,000.00



UNIVERSITY OF MICHIGAN LIBRARIES



Samuel Roth

Samuel Roth of 110 Lafayette Street, New York, N. Y., is one of the most notorious of the violators of Federal and State laws pertaining to the production and distribution of indecent literature. His record of violations of these laws goes back to 1928 when he pled guilty to mailing obscene literature. For his first offense he received a $500 fine and was given a suspended sentence of 6 months.

Roth was one of the producers and distributors of indecent material who did not invoke the fifth amendment to the Constitution in testifying before the subcommittee. A part of his testimony is set forth that shows the thinking of persons producing and distributing indecent material.

Testimony of Samuel Roth:

Mr. CHUMBRIS. I understand you stated that you have been in this business about 38 years?

Mr. ROTH. That's right.

Mr. CHUMBRIS. In the publishing business?

Mr. ROTH. That's right.

Mr. CHUMBRIS. You are connected with certain companies that published such books as Gargantuan Books; is that correct.

Mr. ROTH. That is not correct. Gargantuan Books is a trade name which I have used for distributing books for a period of 6 weeks.

Mr. CHUMBRIS. And are there any other such books that you have used as a trade name; would you please tell us?

Mr. ROTH. I can't remember them, but there are at least 15.

Mr. CHUMBRIS. And Seven Sirens Press; is that one?

Mr. ROTH. No. Seven Sirens Press is the mother corporation of all my activities.

Mr. CHUMBRIS. How about Gargoyle Books?

Mr. ROTH. That is a name.

Mr. CHUMBRIS. Book Gems?

Mr. ROTH. That is another name.

Mr. CHUMBRIS. Falstaff Books?

Mr. ROTH. That is another name.

Mr. CHUMBRIS. Paragon Books?

Mr. ROTH. That, too.

Mr. CHUMBRIS. Do you publish and edit Good Times?

Mr. ROTH. Yes, sir.

Mr. CHUMBRIS. The American Aphrodite?

Mr. ROTH. That's right.

Mr. CHUMBRIS. Beautiful Sinners of New York?

Mr. ROTH. Yes, that is a past publication.

Mr. CHUMBRIS. Lila and Colette and the Isles of Love?

Mr. ROTH. Yes.

Mr. CHUMBRIS. Do you distribute any nudist books?

Mr. ROTH. Yes.

Mr. CHUMBRIS. Would you please name those?

Mr. ROTH. They are books whose names are really numbers. Their general title is "N. U. S.," and they are very beautiful nudes which came through the Customhouse and are sanctioned by the custom censorship.

Mr. CHUMBRIS. Do you distribute "Nudist Colony"?

Mr. ROTH. Yes. That was one of the titles.

Mr. CHUMBRIS. Adult Companion?

Mr. ROTH. I don't—it is something that has to do with my business, but I do not remember whether it is a book or—oh, yes. Of course. It is a Treasury of Literature, edited by Tiffany Thayer.

Mr. CHUMBRIS. Bedside Treasure?

Mr. ROTH. That's another book exactly like that.

Mr. CHUMBRIS. Lady of the Sofa?

Mr. ROTH. That's by Crabyon. That's one of my books. It is a great French classic.

Mr. CHUMBRIS. Nudes?

Mr. ROTH. That comes under N. U. S. I have never had the book called Nudes, as I remember it.

Mr. CHUMBRIS. Loves of the Orient?
Mr. ROTH. Yes; that's a book.
Mr. CHUMBRIS. Fiery French Nudes?
Mr. ROTH. No. It is the way I would advertise the book of nudes, but it is not the title of a book.
Mr. CHUMBRIS. The Nude in the——
Chairman KEFAUVER. Let's just see. Did you advertise the book that way?
Mr. ROTH. That's right. I think I remember advertising a book that way.
Mr. CHUMBRIS. The Nude in the French Theater?
Mr. ROTH. Yes.
Mr. CHUMBRIS. Strange——
Mr. ROTH. That I should call your attention to it. The introduction to it was by Anatole France, who was a Nobel prize winner.
Mr. CHUMBRIS. Strange Loves?
Mr. ROTH. Yes. That's a regular—it is a book published by one or the other of the big publishers which I bought as a remainder.
Mr. CHUMBRIS. Red Light Babe?
Mr. ROTH. There you have got me. I don't remember that.
Mr. CHUMBRIS. You don't remember that one?
Mr. ROTH. It sounds like a paper-cover book that I also bought as a remainder.
Chairman KEFAUVER. What do you mean "bought as a remainder," Mr. Roth?
Mr. ROTH. Most of my business is buying regular publishers' books that the publishers themselves—if publishers publish 5,000 books and sold only 4,000, he sells the remainder of the 1,000 to me as a remainder, and that makes it possible for me to make almost a publisher's profit.
Mr. CHUMBRIS. Her Candle Burns Hot?
Mr. ROTH. That's the title of a book? If you say so, it would be one of those paper-covered books, but it would be a very harmless book if I sold it.
Mr. CHUMBRIS. Carnival of Passion?
Mr. ROTH. Yes; that I remember.
Mr. CHUMBRIS. Women of Plentipunda?
Mr. ROTH. Yes. That's an adaptation of an old book.
Mr. CHUMBRIS. Now, referring to the Women of Plentipunda, is that the same book which you described in this advertising, in these words: "Since adolescence represents an age, psychiatrists tell us, during which a youngster's normal sexual curiosity reaches a high point"—would it be fair to say that the kinds of materials you handle would be of particular interest in this age group?
Mr. ROTH. You begin by saying that you were reading something of mine; you wind up with something that doesn't sound like me. Is that a question you are asking me?
Mr. CHUMBRIS. This is one of your advertisements on these particular books—on this particular book The Women of Plentipunda.
Mr. ROTH. Did you read me my advertisement of it?
Mr. CHUMBRIS. Yes.
Mr. ROTH. I didn't recognize it. Would you please read it again?
Mr. CHUMBRIS. Is that the same book which you describe in this advertising in these words, and I quote: "Since adolescence represents an age, psychiatrists tell us, during which a youngster's normal sexual curiosity reaches a high point"—would it be fair to say that the kinds of materials you handle would be of particular interest in this age group?
Mr. ROTH. I would say not, because in the first place the expression "Plentipunda" is a purely Indian one—it belongs to the Indian, to the religion of the Hindus.

In the second place, if you have a page, any page of that book, as a matter of fact, it is a philosophically written book, a description of what might be considered a Utopia, a Utopia that people imagine for themselves, but which is hardly described in that book in any language that could even be of the faintest interest to children.

Besides that, I can't be appealing to children because we advertise only in the most adult magazines. In the first circular that we send people we ask them for their age, and that is how our list is made up.

The cheapest book we sell is $1.98, and that very rarely—usually it is $2.98, and we can't expect children to pay us any prices like that; and we wouldn't sell them these books under the circumstances.

We don't think that any—I don't think that any kind of a book written in adult fashion can possibly appeal to children. If there is anything there that you think would appeal to children, I would like to hear it.

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Mr. CHUMBRIS. I will hereby show you some advertising material that reached the hands of a minor. This advertising material, one is on the French Pornographer, Good Times, and The American Aphrodite, which return address is Book Gems, 110 Lafayette Street, which you testified are concerns with which you are connected.

Will you please tell us, is this your type of advertising [handing to Mr. Roth]?

Mr. ROTH. Yes. I have already conceded that my type of advertising is very exciting, but anybody can see who has ever tried to read one of those books—you take for instance the book The French Pornographer, you would find an adult under 30 who has not had a college education would find it difficult to go beyond the third page, or even beyond the first page.

It is a very fine book it is a translation from the French.

I deal almost exclusively in French classics. I could say that my exciting style of advertising is a net that I spread among people who have not had a chance for a very good education to get good books into their homes, and I am prepared to prove that almost every book, except those paper-covered books, which I do not consider harmful, are within the realm of either contemporary or modern classics, except those books, and most of the books that I advertise in my magazines are books more than 2,000 years old, books that have been classics for 20 centuries.

Now, do you want me to tell you about this?

Chairman KEFAUVER. Well, first, Mr. Roth——

Mr. ROTH. I don't want to take up too much time.

Chairman KEFAUVER. Is all of this material you have here, advertising which you have sent out?

Mr. ROTH. Yes.

Chairman KEFAUVER. Very well.

Mr. ROTH. Except for the sheet of written paper on top of it. The front there seems to be a letter sent to the committee by somebody.

Mr. CHUMBRIS. By the mother of a minor child.

Mr. ROTH. That was really what I should have answered first.

Chairman KEFAUVER. It will be made an exhibit here and part of the record.

(The information was marked "Exhibit No. 18." The advertisement is on file with the subcommittee. The letter accompanying the literature reads as follows:)

"This enclosed filth was sent to a 15-year-old boy from Gargoyle Books, 110 Lafayette Street, New York 13, N. Y. I think it's time something should be done about this contribution to juvenile delinquency. I intend to follow this through.

"ANONYMOUS."

Mr. ROTH. I believe it got here by accident.

Mr. CHUMBRIS. Mr. Roth, you stated previously in answer to my question that you made sure that you asked the ages of persons to whom you sent your advertising and material.

Mr. ROTH. That's right.

Mr. CHUMBRIS. That particular letter did get to a minor; is that correct?

Mr. ROTH. That's right.

Mr. CHUMBRIS. Mr. Roth, do you have name lists?

Mr. ROTH. Yes, sir.

Mr. CHUMBRIS. How many names would you say are on your name lists?

Mr. ROTH. At present they come to about 400,000.

Mr. CHUMBRIS. 400,000?

Mr. ROTH. Yes, sir.

Chairman KEFAUVER. Here is one that seems to have gotten to Mr. J. Edgar Hoover in some way [handing to Mr. Roth].

Mrs. Garrett Wilson back in Ohio, who complained to her Congressman about her children getting this thing here [handing to Mr. Roth].

Here is one from the president of a college at Columbus, Ohio, saying literature like this came to him and to others at the college [handing to Mr. Roth].

Here is one forwarded by a college president to Mrs. Oveta Hobby. She, in turn, sent it to us [handing to Mr. Roth].

Mr. Roth, you say you make sure that none of your literature reaches the young people. What do you say about all of this?

Mr. ROTH. I would like to answer this.

Chairman KEFAUVER. You identify these as being literature that you sent out?

Mr. ROTH. Yes; these were all things that were sent out by my office, under my general direction.

Chairman KEFAUVER. By your various corporations or publications, or publishing companies?

Mr. ROTH. Yes, sir.

Chairman KEFAUVER. They will all be made exhibits, together with the accompanying letters, which speak for themselves.

(The information was marked "Exhibit No. 19." The advertisements are on file with the subcommittee. The letters accompanying the literature read as follows:)

"We have reason to believe this letter contains literature which should not be allowed to go through the mails. Miss M. is a (age 17) young girl who attended our camp several years ago and we do not know where she is so cannot forward this. Two years ago after she left camp, similar mail came for her, unsealed, second class, which we did not forward when we found it contained obscene material. Please investigate.

"ANONYMOUS."

BURLINGTON, IOWA, *November 20, 1953.*

POSTMASTER GENERAL,
Washington, D. C.:

Enclosed find literature that was mailed to my home. It was sent to my son who tore it up. Why are such vile pictures permitted to be sent through the mail? It is no wonder we have so many sex crimes and juvenile delinquency if this kind of literature can be had. I think it is a disgrace to all decency and I am very angry that my address is used for such a purpose. I think this firm should not be permitted to use the mail and that they should not be permitted to print such pictures. I hope that you can do something to stop them.

Sincerely yours,

Mrs. E. B.

DAVENPORT, IOWA, *October 28, 1953.*

POSTMASTER GENERAL,
Washington, D. C.

DEAR SIR: Enclosed please find an advertisement that was sent to my 18-year-old son. He is now in college and this was forwarded but it is evident that these are being sent to boys in preparatory schools.

We are always hearing that the Postal Department is run at a loss and rates should be raised. I resent very much paying taxes to pay my postman to deliver this type of thing. I have always understood that there was a law about the type of literature that could be sent through the mail.

I should appreciate a statement from you as to the legality of this publication.

Very truly yours,

Mrs. C. S., Jr.

SCHOHARIE, N. Y., *November 20, 1953.*

POST OFFICE INSPECTOR,
Washington, D. C.

DEAR MR. SIMON: Again we received some objectionable literature, but from another company: Gargoyle Books, 110 Lafayette Street (8th floor), New York, N. Y. I'm enclosing the whole thing, and I was just fortunate to notice it before the children got a hold of it.

Is there any way we can find out where they obtain my husband's address? Could such a practice be abolished—especially for such obscene material?

Thank you very much for your previous investigation, and for anything you do this time.

Sincerely yours,

C. S. R.

CORVALLIS, OREG., *June 12, 1953.*

MRS. OVETA CULP HOBBY:

It is, to the best of my knowledge, that you are in the position of doing what you can for the welfare of our country. This is a problem that I wish could be solved. I live in a college town and for years these obscene ads have been coming to our

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students. I feel it is one of the worst demoralizing influences we have to bring our Nation low.

I have no idea if or how anything can be done about it.

The envelopes are marked "Personal." The P. O.'s are strewn with them. Students are curious and make good bait.

Thank you.

C. D

COLUMBUS, OHIO, *October 9, 1953.*

Mr. J. EDGAR HOOVER,
Director, FBI, Washington, D. C.

DEAR MR. HOOVER: Isn't there some way to stop such filth as the enclosed, from coming to decent people through the United States mail?

This is the worst that I have ever seen and one of our graduate students who is helping out in the office was so shocked at this awful stuff that she insisted I write you at once about it.

Very truly yours,

G. S. R.

Mr. ROTH. May I continue, please?

Chairman KEFAUVER. Yes; you may continue.

Mr. ROTH. Thank you.

You will notice that a few of these in which the original envelope is offered, the addresses are not on stencils. This one [indicating] is not on a stencil; this one is not on a stencil; and those are where the original envelope has not been received; they are probably names of people who were addressed through the telephone directories, which is why their first name is "Dr. So-and-So." That covers the letter which reached Mr. Hoover—J. Edgar Hoover—and it covers another letter that I heard you say had been sent in by a doctor.

Chairman KEFAUVER. Apparently these are written out and copies are made, and then the name and address is just cut off with a scissors and pasted on.

Mr. ROTH. Yes, I realize that. But I want to explain what this means, this little thing [exhibiting]. It means that these people on the list, which another company addressed for me, and in which I got the best assurance you can possibly get from people you do business with, that they were not going to minors; and these happened to be minors.

There is no point in my disputing that, when my real point is that if they reached minors they couldn't possibly have any bad influence on them, and they would disregard them. They would disregard them because the language which my circulars are written in may mean something to a Senator, may mean something to a mature adult, but cannot mean anything to a boy or a girl.

Mr. CHUMBRIS. Mr. Roth, do you mean to say that these pictures that are present on this folder [exhibiting] will not excite a minor if it gets into his hands? Won't you take a good look at those [handing to Mr. Roth]?

Mr. ROTH. When you put these pictures against the battery of females that any child sees on any morning in a ride through the subway, in a walk through a street, this is ridiculous as an argument against my business. These are——

Chairman KEFAUVER. Mr. Roth, just a minute.

Mr. ROTH. Forgive me, I shouldn't have said that at all. I am sorry.

Chairman KEFAUVER. You have a pamphlet there with nude females in various positions, and some of them with nude males, apparently. You are comparing those with what you see when you ride on a subway?

Mr. ROTH. Yes. It is not unusual to see a man with his arm around a woman who is naked up to here [indicating], and if the child wants to play around with that kind of an image it can very well imagine the rest of the body to be as naked as the upper part of it.

Chairman KEFAUVER. Mr. Roth, if this won't excite children——

Mr. ROTH. I don't think so.

Chairman KEFAUVER. Children are more easily excited than adults.

Mr. ROTH. Look at this. This is a cartoon, and it is a cartoon that can hardly give anybody pleasure in looking at it.

Mr. CHUMBRIS. Why do you spend so much money putting these photos on that advertisement if it does not excite the men that you hope to sell the books to?

Mr. ROTH. I beg your pardon; I didn't say that. I said that I do hope to excite the men into buying these good books.

Mr. CHUMBRIS. Why doesn't it excite the children then?

Mr. ROTH. Because children's minds are different. They are probably better than the minds of mature people in that respect. A child you have got to tell, to give a real image, or the child just disregards it.

Chairman KEFAUVER. You think men, then, are more susceptible to harm from pornography, or lewd pictures, than children.

Mr. CHUMBRIS. Don't you rent lists from a party in Brooklyn?

Mr. ROTH. "From," but not "to." That's the difference.

Mr. CHUMBRIS. That is what I am referring to. If you are renting from a party, and you do not make a clear and direct analysis of the ages of that name list, then your material could get to juveniles, could it not?

Mr. ROTH. I believe that in that respect my business could be reinforced a little bit by greater care. I admit that; but I am always given the assurance that the people who bought these things spent at least $1.98, and that they were mature people. That's the best I can do at present.

Chairman KEFAUVER. Well, now, how many lists do you buy, how many thousands of names on them?

Mr. ROTH. Well, now, a company in Brooklyn was mentioned from whom I bought approximately 180,000 names, which dwindled down to about 70,000.

Mr. CHUMBRIS. Mr. Roth, on February 27, 1928, you pleaded guilty to mailing obscene literature, and was fined $500 and given 6 months' suspended sentence; is that correct?

Mr. ROTH. That is correct. Would you like me to explain it?

* * * * * * *

Mr. ROTH. I plead guilty after a conference with Judge Knox. I pointed out the book was a Hindu classic, and it should be permitted to be sold at the price which I sold it for, which was $35 a copy.

Chairman KEFAUVER. What did you plead guilty for?

Mr. ROTH. On the advice of counsel—very bad advice.

Mr. CHUMBRIS. On October 19, 1928, sentenced to serve 3 months on Welfare Island for possessing and selling obscene books.

Mr. ROTH. That is correct. It was a book which I have since sold freely and through the post office for a great many years.

Mr. CHUMBRIS. Did you plead guilty, or were you convicted?

Mr. ROTH. I was convicted of that in special sessions.

Mr. CHUMBRIS. November 27, 1929, arrested for possession and sale of obscene literature; case dismissed. Was that correct?

Mr. ROTH. I don't see why I have to argue with that. Go on.

Mr. CHUMBRIS. January 28, 1930, sentenced to 6 months in Federal Detention House for violation of probation; is that correct?

Mr. ROTH. Yes; that is correct. I didn't consider it a violation of probation, and I think the judge who kept the case—Judge Knox—who kept the case running for 3 years, didn't either, except he finally decided it was better to let me serve a sentence. I didn't serve 6 months. He changed it to 2 months at the last minute.

Mr. CHUMBRIS. July 7, 1930, sentenced to serve 60 days for the sale and possession of obscene books. Where was that?

Mr. ROTH. I know where that was. That was Philadelphia, and that was for protecting Ulysses so my grandchildren and your grandchildren will be able to read that book.

Chairman KEFAUVER. Did you plead guilty?

Mr. ROTH. I did plead guilty. Mr. Kefauver, I was threatened by the man who ruled Philadelphia if I dared stand trial on that book, he would see that I got at least 3 years. I have witnesses to that.

Chairman KEFAUVER. You plead guilty?

Mr. ROTH. I had to plead guilty.

Mr. CHUMBRIS. December 16, 1936, sentenced to 3 years in Lewisburg Penitentiary for mailing obscene literature.

Mr. ROTH. You covered that.

Mr. CHUMBRIS. April 14, 1941, found guilty of violating probation; probation extended to December 16, 1946.

Mr. ROTH. I have already covered that.

Mr. CHUMBRIS. Then recently, last year, you had some difficulty with the State authorities on obscene literature; is that correct?

Mr. ROTH. That's right. Have you on the record what happend on that?

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Mr. CHUMBRIS. Yes; I think last week the matter was thrown out of court for illegal search and seizure; is that correct?

Mr. ROTH. Not only that, but because they picked up 70,000 books on my premises and didn't find a single bad one there, and there were none, and they are all being returned to me.

Chairman KEFAUVER. If Mr. Hoover said that it was degrading and increased criminal tendencies, and was one of the real evil influences leading to juvenile delinquency, you would rather have his judgment than yours?

Mr. ROTH. Yes; but I don't believe he had these circulars in mind.

Chairman KEFAUVER. He talked about this kind of literature, too. I read his statement into the record the first day here.

Mr. CHUMBRIS. Mr. Roth, what is your gross income from your operations in these books that we are discussing here this morning?

Mr. ROTH. It is around $260,000, $270,000 a year.

Mr. CHUMBRIS. Mr. Roth, do you try to get contracts with people so you can have publishers write their life and experiences about them?

Mr. ROTH. No. We are asked to, and we do not have anything to do with that.

Chairman KEFAUVER. Were you president of Seven Sirens Press, Inc.?

Mr. ROTH. That's right.

Chairman KEFAUVER. Will you explain what this seems to be on the letterhead of your corporation?

Mr. ROTH. Yes; I will be very glad to. At the end of the first Jelke trial, I contacted the woman known as Pat Ward, and offered her this contract for a book. If you meant this kind of a contract, we offer it to people whose books might interest us. This contract was never signed by Miss Ward, or, I know, by anybody else.

Chairman KEFAUVER. If you are dealing in abstracts, and heroes over in Europe, and metaphysical characters, why do you want to get a contract with Pat Ward right after the first Jelke trial?

Mr. ROTH. I believe a very fine book can be made on that. By the way, there is one in the making anyway.

Chairman KEFAUVER. You didn't get the contract?

Mr. ROTH. No.

Chairman KEFAUVER. She turned you down?

Mr. ROTH. She wanted too much money.

Chairman KEFAUVER. What is that?

Mr. ROTH. She wanted too much money.

Chairman KEFAUVER. Anyway, you tried to negotiate for a contract?

Mr. ROTH. Yes; the book was to have been written by a very fine writer and was to have been a very fine book.

Chairman KEFAUVER. Why would you like to have a book about a person who had just been in a notorious trial?

Mr. ROTH. I believe the New Testament rotates around just that kind of a woman.[17]

Following Roth's appearance before the subcommittee an indictment was returned by a Federal grand jury in New York against him for sending obscene articles and publications through the mails. The 26-count indictment charged that Roth had continued to sell obscene matter while free on $3,000 bail on an indictment returned April 29, 1954. All but 4 of the 25 charges dealt with violations since the earlier indictment.

On January 13, 1956, Roth was found guilty on four counts of this indictment by the Federal court jury. All four counts involved mailing obscene matter. He was given a 5-year sentence and a $5,000 fine as a result of these offenses.

Ross-Tager operation

Roy J. Ross, Louis Tager, and Mary Dorothy Tager, the wife of Louis Tager, operated a partnership business engaged in mail-order distribution of photos and films through the mail. The pictures and film that were distributed through the mail were determined indecent and lewd. Mrs. Mary Dorothy Tager testified before the subcommit-

[17] Roth, Samuel, see testimony, op. cit., pp. 187-210.

tee in California on June 18, 1955, at Los Angeles. Mary Tager testified that the partnership used various trade names, such as Standout Products, Novel Arts, T. & R. Sales, and others. She further stated that the company used approximately 200 different trade names and addresses, primarily for the receiving of orders from people who desired the indecent pictures and film that was distributed by the Ross-Tager partnership.

In order to determine the extent of the business of the Ross-Tager combine and others in the Los Angeles area, Mrs. Tager was questioned as to the volume of business done by the partnership which she estimated at $3,000 per day, or over $1 million per year. She also pointed out that there were approximately 200 companies in the Los Angeles area that operated the same type of business as operated by the Ross-Tager combine, which would give an indication of the enormity of the distribution of pornographic material by mail from the Los Angeles area alone.

One cannot readily visualize the operations of a business such as the Ross-Tager combine without reading the transcript of testimony while Mrs. Tager was on the stand.

"In this business, what was the merchandise which you sold, Mrs. Tager?" questioned Mr. James H. Bobo, general counsel.

Mrs. TAGER. I sold nudes, straight nudes, nothing pornographic, consisting of slides, black and white films, 8- and 16-millimeter, 50-, 100-, 400-foot reels.

Mr. BOBO. In these nudes which you sold, many of them were in various suggestive poses. Would you mean by the fact that they were not pornographic, that they might not be considered under the present laws pornographic?

Mrs. TAGER. Well, no. Personally, I don't consider a picture of a nude woman as pornographic. I think it definitely depends on the way the woman is posed, or—now, to me pornographic material would be more in a strip sequence that would be very suggestive, more so than a straight nude.

Mr. BOBO. Did you sell these particular nudes and novelty cards through the United States mail?

Mrs. TAGER. Yes, sir.

Mr. BOBO. How would you secure the names of customers to whom you were sending this?

Mrs. TAGER. Well, there are many sources. Of course, magazine advertising is one of the main sources of your names. There are many ads appearing even today in magazines or comic books, which is more or less a come-on actually for nude picture buyers. So over a period of time from the replies you get from these various magazines, you accumulate a very large mailing list * * *

Mr. BOBO. Did you ever purchase any mailing addresses from any of the so-called legitimate magazines.

Mrs. TAGER. No, I purchased mailing names from Mosley, who was—well, that is a legitimate place of business where they——

Mr. BOBO. Mrs. Tager, in mailing these photos through the mail, although you did not regard them as pornographic, you had a great deal of difficulty with postoffice authorities; is that right?

Mrs. TAGER. That is right.

Mr. BOBO. You attempted in many ways to avoid the various postal regulations dealing with mailing this type of material out to the country?

Mrs. TAGER. That is correct. * * *

Mr. BOBO. Was there ever any question asked you as to the type of merchandise which you were selling through this advertising?

Mrs. TAGER. No; I can't say that truthfully we were questioned too much about what we were selling.

Mr. BOBO. In drawing these ads and preparing the advertising copy, it was your idea to make them as sexually suggestive and as sexually attractive as possible, would you say?

Mrs. TAGER. Oh, yes. After all, we were advertising material that the buyer hadn't seen. Any ad has to be—well, an ad is a come-on to buy the materials, so naturally our ads, we would go as far as possible with them * * *.

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Mr. BOBO. Do you know the names of any of the magazines in which your advertisements have appeared?

Mrs. TAGER. Yes; there are many. I mean, all of the girlie magazines they have appeared in.

Mr. BOBO. You speak of "girlie magazines." You are speaking of what type of magazine?

Mrs. TAGER. Well, you have got Pic and See and Hit and Miss and Male and Man, and all that.

Mr. BOBO. You also advertised, in addition to the strip series of photos which you made, movies of nude girls.

Mrs. TAGER. Yes, sir.

Mr. BOBO. The girls go through some sort of contortions or dances or some type of action?

Mrs. TAGER. Yes. I had one that did a swimming act in the water. That, to my way of thinking, was quite—it was very good. I mean, there was nothing that could be classed—I mean, you could go to a moving-picture show and see practically the same thing today.

Mr. BOBO. Except for the fact that they would be dressed?

Mrs. TAGER. Well, sometimes they are not always dressed completely * * *

Mr. BOBO. Did any of your ads ever suggest such as this: "You must have Georgia in the nude. Georgia has been named the showgirl of the year because she has so much to show and she knows how to show it. You will sit and sigh over her beautiful figure and what she does with it. She is your open door to a girl's private life"?

Mrs. TAGER. No; I am afraid my advertising wasn't quite that strong.

Mr. BOBO. Well, most of the advertising that you see in this particular business, that would give the idea that these are just not straight nude scenes.

Mrs. TAGER. That is true. That is very true.

Mr. BOBO. And for a sexually inquisitive youngster of 12 or 16——

Mrs. TAGER. Well, he would really think he was getting something.

Mr. BOBO. Yes. This is another copy of a letter. Is that one of the particular types of mailing advertising which you sent out?

Mrs. TAGER. No. I am afraid this is another one that was sent out after I left the business.

Mr. BOBO. Would I get a letter of inquiry back as to my age, or would I get the strip photos or whatever other merchandise you had to sell?

Mrs. TAGER. Well, no. When you place an ad in a magazine—of course, I am going by my own experiences; what some of the others do might be entirely different. When an ad is laced in a magazine and you, perhaps, answer the ad, you send me a dollar. Well, naturally, for that dollar you are not going to get nudes. You get four pinup pictures. Your name is kept on file, and in order for me to keep or try to keep children out of my files, I would send them a letter of inquiry as to their age, and I would get that letter of inquiry back from them before I would attempt to send them any of these advertising pieces for nudes.

Mr. BOBO. The original was just a come-on?

Mrs. TAGER. That is right.

Mr. BOBO. And actually it was more or less a fraudulent ad because the person got not what he thought he was asking for?

Mrs. TAGER. Well, that is very true. * * *

Chairman KEFAUVER. And what is the biggest one you ever sent out?

Mrs. TAGER. Well, you see, I believe the biggest mailings from the business I was associated with, oh, I believe they were sending maybe a quarter of a million pieces a month.

Chairman KEFAUVER. A quarter of a million a month. Do you have a sample of the kind of things that were sent?

Mr. BOBO. Would this be a representative sample of the copy matter?

Mrs. TAGER. Yes. * * *

Chairman KEFAUVER. Say the peak year.

Mr. BOBO. The biggest year that you had, your peak year.

Mrs. TAGER. Well, of course, the peak came actually—actually the peak to this business came right after I walked out on the business and my husband and Mr. Ross, through my instructions and through another party's instructions, went all out; and I believe it is on record in the bank, something like $750,000 in a period of a very few months.

Chairman KEFAUVER. How large a territory did your mailing list cover?

Mrs. TAGER. It was nationwide; worldwide, in fact.

Chairman KEFAUVER. You mean you got orders from all States in the Nation

Mrs. TAGER. All over the world.

Chairman KEFAUVER. All over the world? You mean Canada, Mexico?

Mrs. TAGER. Even Ceylon. * * *

Mr. BOBO. Did you find it necessary or were you ever a part of any type of organization where people in this particular business organized to evade the Post Office Department officials?

Mrs. TAGER. Well, yes. I belonged to an organization that many of the operators in this business joined. We formed a group more or less to pool our notes and try to stay in business.

Mr. BOBO. Approximately how many members altogether did this association have?

Mrs. TAGER. Oh, I would say roughly maybe 20, because there were many that would have liked to have gotten into it, but we didn't want them in the organization.

Mr. BOBO. Well, there were approximately 20 in this association. Do you know from your association with this business how many people there are in this particular business, or were at the time that you were in it in this particular area?

Mrs. TAGER. Well, the figure is high. I believe when I was operating there must have been well over 200, at least 250 operators.

Mr. BOBO. That is all you had knowledge of. Is that over the country or in California?

Mrs. TAGER. No. In the Los Angeles area alone.

Mr. BOBO. Do you have any idea as to the estimate of the number of people who might have been engaged in this business over the country?

Mrs. TAGER. Well, I imagine the figure is quite high because Los Angeles, I believe, is the main port for all this material. I think New York runs a close second.

Mr. BOBO. The group that you were associated with was handling none of the lewd and lascivious, really obscene perverted type of material?

Mrs. TAGER. No. We were handling all more or less the same thing. That is why, as I say, there were several that would have liked to have gotten into the organization and we just didn't want them in with us.

Chairman KEFAUVER. Mrs. Tager, you said at that time. Did the organization deteriorate as time went on?

Mrs. TAGER. Yes; it was very short-lived; very short-lived.

Chairman KEFAUVER. Pornographers did get into the organization?

Mrs. TAGER. Yes; I believe a couple did.

Mr. BOBO. Did you ever hire an attorney to represent the organization or to defend any of the members in any respect?

Mrs. TAGER. We approached attorneys to represent us, but we did not have one attorney to represent the whole group.[18]

Mr. Ralph E. Stapenhorst, postal inspector, Glendale, Calif., testified that Louis Tager pleaded guilty to the first five counts in an indictment which charged him with mailing obscene matter and to count No. 51 which charged conspiracy to violate the law regarding obscene matter. A trial was had before Federal Judge Peirson M. Hall on about March 29, 1954, and the judge, after viewing a number of the films and examining the slides and photographs, declared that the material he had viewed was not obscene; that Roy J Ross, the partner with Louis Tager, was found not guilty.

Louis Tager then moved to have his plea of guilty set aside, which motion the judge accepted, and the United States attorney was ordered to proceed with the prosecution later that afternoon. When the United States attorney informed the court that he wished to have some of the juveniles appear as witnesses at the trial and further that he needed time, the action against Louis Tager was dismissed for want of prosecution by the Government.

The subcommittee is at a loss to understand the action of the court in dismissing the case against Louis Tager for want of prosecution in view of the explanation given by the United States attorney that he needed time to have certain witnesses appear for the trial. It seems,

[18] Tager, Mary Dorothy, see testimony, op. cit., pp. 315-339.

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that in view of the great wave of pornographic material that was being distributed throughout the country as testified to by police officers, and post office inspectors, that no great injustice would be done to the defendant in this matter if time had been given to the United States attorney to have in court the necessary witnesses who would be in a position to give the full facts to the court. The subcommittee believes that all of the constitutional guarantees should be given each defendant irrespective of the nature of the criminal case involved; however, the subcommittee feels that the court showed a lack of discretion in this matter in dismissing the case for want of prosecution and not giving the United States attorney sufficient time to get witnesses for what appeared to be a very, very important case dealing with the production and distribution of pornographic material through the mail.

Sugarman-Tager partnership

Calvin Sugarman of Providence, R. I., together with Mary Dorothy Tager, of the Ross-Tager partnership in Los Angeles, Calif., who later moved to Providence, R. I., after severing her relationship with Ross-Tager, combined sometime during the spring of 1954 to put into operation a scheme to send out circulars through the mails under fictitious names offering photographs of nudes for sale.

Calvin Sugarman, in furtherance of the scheme, used fictitious names and arranged for "drops" to receive mail sent in response to the circulars as follows: Robert Adams in Providence; Joseph V. Bush in Pawtucket, R. I.; Jon Carter in Worcester, Mass.; Earl Drake in Hartford, Conn.; and Jeff Ellis in New Britain, Conn.

Sugarman opened bank accounts under the fictitious names of Adams and Bush in banks in Providence and Pawtucket; deposited cash, money orders and checks in the amount of several hundred dollars that had been received through the mails in response to the circulars previously mailed by him and Mrs. Tager to prospective customers all over the United States, and made withdrawals from said accounts for himself and Mrs. Tager, and in one instance for the payment of a bill incurred for the printing of the circulars.

He personally collected the mail from the Adams and Bush "drops" and opened it and made deposits of the cash, money orders and checks received.

Mrs. Tager arranged for the mail sent to the "drops" in the names of Carter, Drake, and Ellis to be forwarded to her home in Narragansett, R. I., where she opened it and deposited the cash, money orders, and checks received in her own bank account in a bank in Narragansett.

Mrs. Tager made additional mailings of circulars to customers directly from her address using the fictitious name of M. Miller and G. Wallis. She arranged a "drop" in Boston, Mass., for the receipt of the Wallis mail and had it forwarded to her home in Narragansett.

Enclosed with the Wallis circular was a lewd and obscene photograph as "bait" to stimulate orders.

No merchandise was ever sent to fill any of the orders received by Sugarman and/or Mrs. Tager, thereby establishing that a scheme to defraud existed. On the other hand, the Post Office Department had in its possession complaints and other evidence of nondelivery of

merchandise showing that some 2,500 to 3,000 persons had been defrauded, some even 2 or 3 times.

Mrs. Tager was indicted for sending the obscene photograph through the mails. Neither Mrs. Tager nor Sugarman were indicted for using the mails to defraud.

As mentioned earlier, the scheme to send out the circulars soliciting orders was conceived by Sugarman and Mrs. Tager in the spring of 1954. The circulars were mailed during the months of May, June, and July, and the orders were received during those months. The deposits in the banks in the fictitious names of Adams and Bush by Sugarman and by Mrs. Tager in her personal account were also made during these same months.

The post office inspectors became aware of the operation not long after its inception and their investigation was proceeding almost concurrently with the activities of Sugarman and Mrs. Tager. It was his identification with the Adams and Bush mailings, and subsequently with the Carter, Drake, and Ellis mailings that led to the discovery of his association with Mrs. Tager in the general operation.

The substance of the testimony of the post office inspectors before the subcommittee on November 8, 1955, was that all of the facts relating to the activities of both Sugarman and Mrs. Tager had been brought to the attention of Mr. Jacob S. Temkin, United States attorney in Providence, R. I., at the time, and that he alone made the decision to prosecute Mrs. Tager on the obscenity charge and that he alone refrained from any prosecution of Sugarman and/or Mrs. Tager on the fraud charge. They explained further that they are not empowered to make any recommendations, and that their sole function is to gather and present the facts of any individual case.

Mr. Temkin maintained before the subcommittee that the post office inspectors never made any recommendation to him that there be any prosecution of Calvin Sugarman and that, at a conference in his office on September 10, 1954, they asked only for the issuance of a complaint against Mrs. Tager. Mr. Temkin denied that he had ever read the case file or that he had ever perused the statement obtained by the post office inspectors from Calvin Sugarman before the conference. After the conference on September 10, Mr. Temkin said he turned the case over to an assistant in his office and never had any more to do with it.

Less than 24 hours after the announcement was made that this subcommittee planned to hold hearings in Providence, R. I., on November 8, 1955, regarding the Sugarman-Tager operation the present United States attorney in Providence, R. I., Mr. Joseph Mainelli, obtained an indictment against Calvin Sugarman on 24 counts of using the mail to defraud. Sugarman is now awaiting trial.

VIII. CONCLUSIONS

Members of the subcommittee are greatly concerned with the widespread production, distribution, and sale of pornographic materials, especially that portion which falls into the hands of children and adolescents. The fact that a large segment of the American people have no understanding or knowledge of the existence of this material so easily available is also a source of concern.

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Great progress has been made in the elimination of crime and norror comic books from the American scene through action by the comic book industry as well as local citizen groups, but to the field of pornographic literature little attention has been given. No group, prior to this subcommittee, had ever done an investigation and study of this degrading type of material solely. Police departments, the Federal Bureau of Investigation, the Post Office Department, and the customs service had been aware of this evil for years. Due to the minor nature of the offense, as it was almost universally considered on the local level, police departments took very little action to stop the traffic. The Federal Bureau of Investigation was powerless to stop this traffic unless the shipments were made in interstate commerce by express or common carrier. Only the Post Office and customs service had adequate measures with which to deal with the purveyors of pornography. These agencies were often stymied by a lack of understanding of the problem by the courts and the small sentences meted out in most cases.

Pornography, too, was most often thought of as having only adult appeal and considered mostly a nuisance that was shown only at stag parties. Under these conditions the traffic in pornography was allowed to grow into an approximate $500 million a year racket embracing practically every conceivable media of communication. There were great numbers of debased and unscrupulous individuals who turned to this field to garner profits by appealing to warped personalities and youth with their lack of knowledge and curiosity.

The investigation made by this subcommittee was by no means an exhaustive one. It was limited in its jurisdiction primarily to juveniles and limited further by the necessity to conduct other studies and investigations of equally large proportions at the same time. However, certain conclusions can be arrived at on the basis of this limited investigation.

There are definite ties between the large producers and distributors of this material. The very nature of the material points to its connection with organized prostitution, and those engaged in that traffic. The constant reference through arrests made in widely separated areas of the country to certain known dealers in porngoraphy shows the association between these dealers. The subcommittee does not say that there is an organized syndicate distributing this material but there is a possibility that such a syndicate does exist.

The similarity of pornographic films, photographs, booklets, etc., seized in Florida, Texas, Illinois, Michigan, Tennessee, Ohio, Pennsylvania, Rhode Island, Massachusetts, California, Louisiana, Alabama, North Carolina, South Carolina, Maryland, New Jersey, New York, Connecticut, North Dakota, Indiana, Virginia, and the District of Columbia, indicates a central source of supply or wide exchange of material.

The absolute refusal on the part of many witnesses to testify under oath and the fear of reprisal expressed to subcommittee investigators by many of the smaller dealers indicates some of the viciousness of this traffic.

The tremendous profits derived from the sale of this material are also most attractive to members of the underworld. Such a lucrative traffic in pornography could not long escape the notice of the overlords of vice and crime in the cities of America.

As a result of our investigation there is no doubt on the part of the subcommittee that a very large percentage of the pornography produced in the United States reaches the hands of juveniles. What has been the result of this increased exposure of youth to this type of material?

While this traffic has been growing, sex crimes have increased with almost unbelievable rapidity. The statistics speak for themselves. A survey by the Federal Bureau of Investigation recently showed that during 1953 a sex criminal was arrested somewhere in our Nation every 6.7 minutes, day and night. Rape cases have increased 110 percent since 1937. More rapes are now being committed by 18- and 19-year-old boys than by males in any other age group, and the percentage of rapists under 20 has approximately doubled since 1940. The impulses which spur people to sex crimes unquestionably are intensified by reading and seeing pornographic materials.

The sharp increase in crimes of this type is largely the result of social and family upheavals which occurred during and immediately after the Second World War.

The wartime spirit of abandon and "anything goes" led to a decline of morals among people of all ages, and this is especially marked among today's young people. Many of the youths described above grew up in homes disrupted by the war. They receive little or no parental attention or supervision. It is not surprising that many of them developed neurotic tendencies or took up with evil associates from whom they acquired depraved attitudes and vicious practices.

Other causes are a lack of public understanding of the practices of sex offenders, methods of controlling them, inadequate laws and law enforcement, a scarcity of medical facilities for treating sexually abnormal persons, and, last but not least important, flagrant failure of countless parents to train and safeguard their own children properly.

Who are the pornographers?

Every community employs certain restrictions on its citizens, and one of the restrictions is verbal communication of certain private matters which can be discussed very privately among some people, but cannot be discussed in public. Among these is included certain material dealing with the private sex lives of individuals—the intimate relations that are established between people in private. However, there are some people who seem to take satisfaction in spreading this type of material abroad; and these are the people who indulge in pornographic material.

There are two aspects to this pornographic material. There is the doer, the one that secures pornographic material for distribution; and then there is the victim who is exposed to that by the material of the other doer.

For this reason, in order to develop pornographic literature you have got to have people who make a specialty of this pornographic literature. They go to the trouble of engaging people to pose for them in various sexual poses, and then after they get the material they get victims who pay certain amounts of money for the purpose of being able to see this material.

This material deals with sexual matters, with sexual relations, but not with the normal so-called average type of sexual relations. There is no interest in that, but usually with the type of sex material that ordinarily is prohibited or at least is unmentionable.

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For instance, homosexuality and perversions. In homosexuals we often get pictures of people engaged in homosexual relations of a great variety. There are differences in homosexual relations in men, and there are differences in homosexual relations in women. This is pure homosexuality; but between homosexuality on the one hand, and so-called heterosexuality on the other hand, there are a large group of people and activities which are called perversions.

Perversions may occur between couples, men and women, but in entirely abnormal and pathological ways—for instance, different positions, different manners of acting.

This is what is the purpose of pornographic salesmen, and people pay money for it.

There would be few deleterious psychological effects of pornographic literature if this were exposed to people who are normally developed and have been able to develop normal inhibitions, repressions, and controls.

Unfortunately it is often given to people of adolescent ages, which from our point of view is a very unstable period of life. Anything may happen during adolescence. You can take perfectly healthy boys or girls and by exposing them to abnormalities you can virtually crystallize and settle their behavior patterns for the rest of their lives.

If they are not exposed to that they may develop to perfectly healthy, normal citizens. It is here that objection comes upon pornographic literature.

During the course of our investigation, a list of statements on the relationship between pornography and juvenile behavior was sent to one of our witnesses, Dr. Benjamin Karpman. The statements, with Dr. Karpman's answers, read as follows:

1. The need for knowledge on sex is apparent among adolescents

Comments.—Adolescence is an age in which the growing boy or girl becomes aware of the existence of sexual problems chiefly because of anatomical changes taking place in the body.

2. The provision of adequate sex knowledge is lacking in our existing social institutions, i. e., the home, the school, and the church

Comments.—It is entirely true that there is very little provision for adequate sex knowledge made in our existing social institutions, the home, school, and church. While at first blush, it would appear that the home would be the very proper place where sex knowledge could be obtained and given, in actual practice this is not the case. The reason for this is that the parents themselves are not so very well informed on the subject even though they may have had considerable actual experience in their lives. However, even at best, that is to say, when the parents have the information, they lack the moral courage to impart such information to the boy or girl in question. They just cannot summon enough courage to explain the meaning of certain words necessary to understand the subject. It must further be borne in mind that between children and parents there often develops a barrier that severely confines the boy's or girl's inquiry. Not infrequently, a boy or girl will approach one of the parents with a question and the parent will respond to it with some angry outburst such as "young boys and girls should not ask such questions." Because of all this and because an inquisitive person cannot be stopped by a rebuff and refusal, the net result is that the children in question seek information through sources outside of the home, often spoken of as "gutter information." It should be mentioned in passing that many boys and girls of the more refined type often find themselves in the throes of emotional conflict in which sex is the predominant factor and when they are unable to get the needed information they will commit suicide; this is often the case with high-school children.

The most proper place for obtaining this information is, of course, the school. The school has certain advantages over the home.

(*a*) The teacher is entirely impartial and can impart information in a truly objective way.

(*b*) By means of demonstrating aspects of life from botany and zoology, the teacher is able to bring illustrations to the boys and girls in a practical, constructive and entirely acceptable way.

(*c*) I do not believe that the church would be a proper medium to impart sex information precisely because the church as an institution stands as a moral guardian of any sexual practices that are outside of the limits of the normal. Since the church is obliged, by reason of its position, to advocate chastity until marriage and sexual control in marriage, and since, on the other hand, there is a good deal of sexual activity going on in a premarital way, the church would not be in a good position to impart the knowledge. The imparting of such knowledge should go to the teacher trained in the presentation of such problems.

3. *In order to fill this need, many adolescents may turn to whatever material is available. For example, the large amount of pornographic literature*

Comments.—As a matter of actual fact, many adolescents unable to satisfy their psycho-biological curiosity often do turn to pornographic literature which usually imparts information in a pathological and most distorted way. It should be noted here that the problem of sex disturbs not only adolescents but children as well since psychological development often runs ahead of anatomical development. Information should be imparted from the age of about 6 and on; each age to have its own type of information. It is submitted here that proper attention to the developing sex life of children and adolescents may contribute substantially toward the solution of the problem of juvenile delinquency.

4. *Sexual attitudes may be affected by exposure to pornographic material. Attitudes could develop that might be detrimental to existing social institutions*

Comments.—It is entirely true that sexual attitudes may be affected by exposure to pornographic literature. It must be borne in mind that while anatomically the individual boy or girl becomes aware of sexual problems during adolescence, he is exceedingly labile to any information that might affect his sex life; whereas, under normal circumstances, given normal development without exposure to pornographic literature, the boy or girl may develop to normal manhood and womanhood. This is clearly seen from the consideration known as bisexuality. By bisexuality we mean a condition which arises on the basis of the fact that biologically every man and every woman has not only the anatomic factors of one sex but also to some extent those of the other sex. In other words, in every male there is a female component which is derived genetically from the mother, and in every female there is a masculine component which is derived from the father. If these factors are allowed to have their normal development, nothing abnormal develops in most cases. However, if a boy is exposed to the influence of pictures which depict homosexuality, he, by reason of his lability and susceptibility may easily be drawn to the homosexual side. Over and over again, one sees high school girls coming to the office of psychiatrists much frightened that they have a crush on this or that woman. If proper measures are taken at the time, no harm results and these boys and girls grow up to be normal men and women. Pornographic literature may well affect not only homosexuality but even a strong leaning toward perversions which in a large measure stem from bisexuality.

5. *In many disturbed children, pornographic literature may provide support for already existing attitudes toward sex. Attitudes of a sadistic or homosexual nature may be given support or sanction through looking at this type of literature*

Comments.—There are the numerous instances of boys and girls who are normal but may be detracted from the normal path of development by pornographic literature. Further consideration must however be given to the fact that by reason of psychologic development, some are already inclined toward homosexuality and perversions more than normally; that is, they have a large component of homosexuality and bisexuality, which may be definitely influenced by pornographic literature. This is true of the larval homosexual, the sadistic, masochistic, fetishistic, paedophiliac individual who have these tendencies to a greater degree than the normal.

6. *Perhaps you could then offer a solution to the problem in terms of adequate sex education within the school system*

Comments.—The one solution that I can offer is one I have already suggested before; namely, that there ought to be adequate sex instruction within the school

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system and the problem of instruction at home should be left entirely to the few situations where we know that the parents in question are fully competent to handle the problem.

I further suggest that every school ought to have a psychiatrist with staff consisting of an assistant psychiatrist, a psychologist and a social worker for the purpose of interviewing regularly the children of the school. That is, interviews should not be limited only to those who seek help but even to those who do not seek help. With proper guidance, a good deal of trouble could be avoided.

It is surprising how many crimes, apparently of the predatory nature, are committed by adolescents unable to solve a sexual problem. Tension is tension and sexual tension may find release through nonsexual channels.

Another area of investigation was that of the bondage, spanking and whipping photos which was discussed by Dr. George W. Henry. He testified that these materials are definitely pornographic in that they stimulate the mind to abnormal sexual practices and that they are known to psychiatrists as sadism, masochism, fetishism, and so on.

Dr. Henry further testified as follows:

While these sado-masochistic urges may develop in children when they are 3, 4, or 5 years old, if pornographic literature would not come along, these urges would remain within certain confines. These people would not get well if the pornography were not present, only psychoanalysis can cure that, but they are "egged" on as it were to worse perversions by looking at pornography that dwells on the pathological. Materials of this nature broaden and widen the impulses of the sadist and the masochist and many times attract people who would otherwise remain entirely innocent.

The importance of pornographic literature in the development of the sadist was recognized early by students of the problem. In his monumental study Psychopathia Sexualis, Krafft-Ebing wrote:

Even a very few case studies of the brutalities of sadists show how very wide is the framework of their imaginary world. It is clear that the expenditure of phantasy needed for the purpose cannot usually be completely met from the patient's own means, and there exists in fact an extensive literature (i. e., pornography) which is employed as a groundwork for these daydreams and the wish-fulfillments. Sadistic literature, or other literature which is available to sadists, is by no means merely pornographic; historic representations are provided, including works on witch-trials, corporal punishment, tortures, Christian martyrdom, and so on, which play the main role. This is unsatisfactory and serious, since it is so often merely a matter of time before the patients proceed on the basis of purely idealistic sadism to real actions, which in that case are generally grave acts of sadism.

Throughout the subcommittee's investigations and hearings, cases of sadistic brutality and even murder have been found wherein the modus operandi was prevalent throughout the advertisements and materials produced by pornographers such as Irving Klaw.

Mr. Clarence Grimm, of Coral Gables, Fla., appeared before the subcommittee and described how he found his son who was allegedly attacked and murdered by a sadist. In his possession he had newspaper clippings and photographs of his slain son. The photo shows 2 saplings, with a 1- by 2-inch board suspended between the forks of the trees. Hanging by his knees and in an inverted position, is Kenneth Grimm. He is trussed up with ropes, tied around his ankles, the same ropes reaching from his ankles to his arms, and looped around his neck, so that his body is pulled back in a very grotesque-looking position.

Mr. Grimm identified many of the advertisements on exhibition as containing the identical position of bondage which he found his son in.

Several of the four young thrill killers who were apprehended for the torture-murders of derelicts they found in the parks of New York were readers of this type of literature.

In summation, the subcommittee found that the home no longer fulfills the duty of sex instruction. The school has not yet taken it up. No other agency has assumed the obligation and consequently, children find out the facts of life under the most disgusting and degrading circumstances.

The control of pornography rests with three distinct yet interconnecting groups. They are: (1) The Federal Government; (2) States and local communities; and (3) the individual. Generally, none have shown sufficient awareness of this acute situation.

In this respect until recently the Federal Government has been the chief offender. On the Federal level we can stop the importation of this salacious material by adequate legislation and increased enforcement. The Federal Government must also be concerned about the distribution of pornographic material through the mails and its transportation by private automobile in interstate commerce.

Basically, however, it is the responsibility of the Federal Government to provide leadership in the overall effort to combat the distribution of pornographic material.

On the State level, there is desperate need for improved State statutes. Several States are showing the way in this respect, and the signs are becoming more hopeful in many others.

Local law enforcement and the public interest in this problem still tends to be spasmodic and insufficient.

IX. RECOMMENDATIONS

1. That the Congress of the United States enact pertinent legislation designed to curtail the production, distribution, sale and possession of indecent, lewd, and obscene material in interstate commerce.

(*a*) The subcommittee has submitted certain bills to the United States Senate which have not yet been acted upon. These include:

(1) S. 2193: To authorize the confiscation of any vehicle, equipment, stock, and so forth, used or to be used in connection with the production, distribution, sale, or possession of pornographic material in the District of Columbia.

(2) S. 2213: To require that any obscene publication transported in interstate commerce shall contain the name and address of the publisher of each publication.

(3) S. 2515: To provide more stringent penalties for violations of laws concerning pornography.

(4) S. 2516: To authorize the Postmaster General to hold and detain mail for temporary periods in certain cases.

(*b*) That the Congress enact a law amending the fugitive flight law to include narcotic violators and traffickers in pornography.

(*c*) That Congress enact a law authorizing the prosecution of offenders in communities where the obscene and pornographic matter is delivered and where it actually inflicts injury upon the recipient, rather than the authorization for prosecution of offenders at the point of mailing the obscene and pornographic matter in Federal cases.

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(*d*) That Congress enact a law amending title 18, sections 1461, 1462, 1463, 1464, 1465, United States Code authorizing the confiscation of any vehicle, fixture, equipment, stock, or any other thing of value used or to be used in connection with production, distribution, sale, or possession of pornographic material.

(*e*) That the law relating to indecent publications in the District of Columbia be amended to provide more stringent penalties and to strengthen the present law pertaining to production, distribution, sale, or possession of indecent material.

2. That the State laws and municipal ordinances be reexamined and reevaluated in their respective jurisdictions to assure modern, effective, and stringent laws which will deter the production, distribution, sale, and/or possession of pornographic material.

3. Numerous witnesses testified that under many jurisdictions there were no jail sentences and insufficient monetary fines meted out to well-known and large producers, distributors, sellers, or possessors of pornographic material, to the degree that the violators would have no fear of the law and operate openly and flauntingly. It is respectfully recommended that the judicial branches of the Federal, State, and local governments reevaluate the matter of punishment for said violations in the light of the facts and evidence adduced at the subcommittee hearings and similar State legislative hearings on the subject.

4. The subcommittee circulated to the chiefs of police and sheriffs throughout the country the names, addresses, and other pertinent data of known producers, distributors, sellers, or possessors of pornographic material. This procedure resulted in several very successful arrests and/or convictions of known pornographers. It is recommended that a National Advisory Crime Commission be established as a clearinghouse of pertinent information on violations of laws relating to pornography, narcotics, and so forth, so that as soon as such a crime is committed, data on it will immediately become available to every peace officer in Federal, State, and local jurisdictions.

5. Numerous witnesses referred to the public apathy toward and lack of sufficient knowledge of the extent and impact that pornography has on the mind of the young. The subcommittee therefore recommends that religious, civic, and service groups provide the aggressive leadership needed in forming public opinion and inspiring the public in the fight against pornography as they did in the fight against crime and horror comics and lurid magazines and books. Several witnesses testified as to the excellent community action in this respect.

6. The fact that today's teen-age population does not receive adequate sex education increases the deleterious effect of pornographic literature. Even otherwise nondelinquent children might and do gain the wrong impressions of sexual behavior and marriage because pornography is the only source of information they have. The subcommittee has found that the provision of sex knowledge is almost totally lacking in our existing social institutions, that is, the home, the school, and the church. The subcommittee concurs with those authorities in the field who feel that sex education should be given. This could be one of the prime deflectors in the path of a child whose attitude toward sexual conduct has been colored by pornography.

Another aspect of sexual behavior among youth was brought to the attention of the subcommittee by the American Social Hygiene Asso-

ciation. Their preliminary studies of venereal diseases indicate that over half of the venereal cases in the United States are among teenagers. Representatives of the association have indicated to the subcommittee that lack of sex knowledge is one of the major contributing factors to this situation.

BIBLIOGRAPHY

Pornographic Literature and Its Relationship to Sex Offenses

Note.—There are no studies on the relationship of pornographic literature to sexual offense, although studies on pornographic literature and others on sex criminals occasionally have reference to the effect of such literature on the individual and on the sex deviate. The references listed below are those in which some reference is made, though indirectly, on the subject.

Bloch, Dr. Iwan. Anthropological studies in the strange sexual practices of all races in all ages. New York, Anthropological Press. 1933. 246 pp.

Dr. Bloch is identified as a "Physician of diseases of the sexual system," Berlin. This particular edition is translated from the German by Keene Wallis.

Dr. Bloch attempts to summarize the strange sex practices of many races and all ages. Chapter 15 is devoted to erotic and obscene literature, and the history of such while chapter 16 is a summary of knowledge concerning obscene paintings, sculpture, pornographic photographs and albums. As to the effect upon an individual, Dr. Bloch has this to say (p. 205): "No doubt many persons with already fixed sexual perversions stimulate themselves with pictures of a corresponding kind, but most of the pictures come to the attention and into the possession of persons thoroughly normal sexually or decidedly not subject to a specific perversion, as is proved by their collecting photographs of all possible varieties. The effect on such persons is frightful * * * a single pornographic picture can poison the imagination especially of a young person, irremediably, can have more frightful effect than seduction itself."

California, Department of Mental Hygiene. California sexual deviation research. Report. January 1953. 156 pp.

This report is part of a continuing research by the State of California into the problem of sex crimes and sex criminals. Although this report is not intended to be a study of pornographic literature, it does bring out the effect of the written word on some individuals in this manner (p. 114):

"Indeed, some evidence exists, according to Davidson, that public clamor about sex crimes and the chance to study newspaper details and gruesome pictures may be enough to overturn the unstable balance in which some persons constantly live. Although sane, these persons with perverted and aggressive sex drives are in a state of such precarious balance and are so fearful of being forced to yield to unwanted impulses that the publicized accounts may precipitate aggressive sex behavior."

DeRiver, Joseph Paul. The sexual criminal; a psychoanalytical study. Springfield, Ill. Charles C. Thomas, publisher. 1949. 281 pp.

The author is identified as criminal psychiatrist and sexologist, Los Angeles Police Department.

This is a study of the sex criminal, his background and individual case histories. A case history of a sadist discusses his use of pornographic literature (p. 15–18) and one case of a sadomasochist and his use of pornographic literature to induce excitement.

Doshay, Lewis J. The boy sex offender and his later career. New York, Gruen & Stratton. 1943. 206 pp.

Dr. Lewis J. Doshay was psychiatrist, children's courts, New York City; senior assistant physician, Manhattan State Hospital, New York, and attending specialist in neuropsychiatry, United States veterans' hospital, New York City. This study is intended to establish the significance of early sex offenses among males in relation to later life behavior. On page 80 there are a variety of causes listed as contributing to the delinquency of the person and among these are "curiosity and excitement aroused in pubescents by pornographic literature or lewd talk."

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Forel, August H., M. D., Ph. D., LL. D. The sexual question; a scientific psychological hygienic and sociological study. New York, Physicians & Surgeons Book Co. 1925. 536 pp.

This is a rather general work on marriage as it relates to sex, including the psychosexual growth of the child mind. Although the author does not discuss pornography to any length or in detail, a few paragraphs of chapter XVII do state the author's opinion of the effect upon children's sexual mental balance.

Georgia Literature Commission. A report of the Georgia Literature Commission to the Governor, the General Assembly, and the people of Georgia. 60 pp. 1955.

Although this report confines itself to pornographic literature and how to stop circulation of such, there are several paragraphs attempting to show a connection between pornographic literature and sex offenses. A few well-known persons such as J. Edgar Hoover and Inspector Herbert Case, head of the Detroit Police Censor Bureau, are quoted as stating that there is a connection between the two.

Karpman, Benjamin, M. D. The sexual offender and his offenses. Washington, D. C., Julian Press, Inc. 1954. 744 pp. Dr. Karpman is Chief Psychotherapist, St. Elizabeths Hospital.

This work includes an extensive bibliography for the years 1912 to 1951 and is very well indexed. The study is divided into two sections, the one on review of literature, and the other on psychodynamics of sexual offenses and formulation of the problem. There are several paragraphs and statements indexed concerning pornographic literature in general.

Kirkendall, Lester A. Sex education as human relations: a guidebook on content and methods for school authorities and teachers. New York, Inor Publishing Co., Inc. 1950. 351 pp.

This study attempts to cover the need, philosophy, objectives, institutional relationships, methods, and materials in the field of sex education. Page 171 contains a paragraph concerning the effect of sex information through various sources. Pornographic literature is discussed (p. 171) and found to be inciting in 119 of 127 cases, the conclusion being drawn that it is not the mention of sex that produces stimulation and curiousity, but rather the way in which it is mentioned. Table IV of this publication is a study of 380 children indicating the age at which they first saw pornographic literature.

Krafft-Ebing, Dr. R. Psychopathia sexualis. New York, Rebman Co. 1922. 617 pp. Translated by E. J. Rebman.

Even a very few case studies of the brutalities of sadists, said Dr. Krafft-Ebing, show how very wide is the framework of their imaginary world. It is clear that the expenditure of phantasy needed for the purpose cannot usually be completely met from the patient's own means, and there exists in fact an extensive literature (i. e., pornography) which is employed as a groundwork for these daydreams and the wish-fulfillments. * * * This is unsatisfactory and serious, since it is so often merely a matter of time before the patients proceed on the basis of purely idealistic sadism to real actions, which in that case are generally grave acts of sadism.

Lawton, Shailer Upton, M. C. Sexual conduct of the teen-ager. New York, Spectrolux Corp. 1951. 180 pp.

This is a rather complete study concerning the sex conduct of teen-agers. On pages 133–134 are the only references to pornographic literature, which simply refers to teen-agers owning and creating pornographic literature.

Lockhart, William B., and Robert C. McClure. Obscenity in the courts. In: Law and Contemporary Problems. School of Law, Duke University. Vol. XX. Autumn, 1955. No. 4.

This is a very thorough study from the legal point of view as to what constitutes obscenity. Résumés of various legal decisions are given. The following statement from this article bears upon the subject of this bibliography:

"For example, advocates of strict obscenity censorship rely heavily upon the conclusions of prison wardens and law-enforcement officers that 'salacious material' is an important factor in the increase in sex crimes, although there is nothing to indicate that these conclusions are based upon anything other

than bare conjecture from the fact that sex criminals also read sexy magazines. There is nothing even to suggest that their conclusions were based upon any careful study designed to separate the various factors that might contribute to sexual delinquency. So far as appears, these conclusions are guesses based on the fact that those with antisocial sexual desires do read sexy material, without any attempt to determine which is the cause and which the effect. On the other hand, neither do those who oppose this type of censorship rely on any scientific study of the possible causal relationship between sex literature and sexual behavior. Instead they point to studies indicating that books stand very low among the various sources of sex knowledge. From these findings, it is reasonable to conclude that literature dealing with sex is not an important factor in most sexual behavior; but this does not necessarily mean that among those who read, such literature is a negative factor. Or they quote unnamed psychiatrists to the effect that pornographic literature does not lead to sex crimes, with no references to any substantiating studies."

Lorang, Sister Mary Corde. O. P., M. A. The effect of reading on moral conduct and emotional experience. Studies in Psychology and Psychiatry from the Catholic University of America. Vol. VI, March 1945. No. 5. 122 pp.

Sister Lorang sums up here study in these words, "It does not attempt to answer every question in relation to the effectiveness of reading, but it does endeavor to give an overall picture of the field as it applies to adolescents. It attempts to study the relationship between the reading material and its effects; the variety and frequency of emotions aroused; the actions and principles born of reading, the relative effectiveness of books, pictures, and magazines. Through actual autobiographical sketches of the subjects, we hope to give a rather clear idea of just what reading material can do to the adolescent reader. No attempt is made to give a quantitative analysis of effects, of their depth or extent."

The study includes 21 statistical charts.

Michigan. Governor's Study Commission on Sex Deviates. Report of the Governor's Study Commission on the deviated criminal sex offender. Published by the State of Michigan. 1951. 245 pp.

Governor G. Mennen Williams appointed a 21 member commission in November of 1949 to study the sex offender as a social problem and to make recommendations for more effectively meeting the problem. This report of the commission is very detailed and concludes with 40 specific recommendations, one of which is as follows:

"A consistent effort should be made by the whole community to decrease influences which may be inciting factors in the commission of sex offenses. Intemperate use of beverage alcohol and the presence of obscene sex portrayals are among such factors * * *."

Pollens, Bertram. The sex criminal. New York, Macaulay Co. 1938. 211 pp.

Mr. Pollens was senior psychologist of the penitentiary of the city of New York.

This study is confined to such subjects as the psychosexual stages of man, whether his tendencies are inherited, and what can be done about sex criminals. There are no case histories or statistics given, although Mr. Pollens does arrive at some personal conclusions as to methods of prevention.

"Psychiatrists say sexy books don't cause crimes." In Science News Letter, January 3, 1953, p 9.

Very short article maintaining that the opinion of most leading psychiatrists and psychoanalysts agree with this point of view. There are no names, sources, studies, statistics, or other data given to back up this statement.

Ramsey, Glenn V. Factors in the sex life of 291 boys. [N. p.] 1950. 106 pp.

This pamphlet is essentially a reproduction of a doctoral dissertation which was presented in 1941 to the school of education at Indiana University. The author's intent was to obtain information on the following factors: (1) The ages at which certain items of sex information were received, as well as the nature and source of such information; (2) the nature of certain physical growth factors of the reproductive system that are of concern to maturing boys; and (3) the nature and incidence of their sexual behavior. Table XVII is entitled "A Crude Index of Erotic Responsiveness of Boys at Each Age to Possible Stimuli." Obscene literature, is covered by such breakdowns as obscene pictures, literature, female nudity, etc.

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Calendar No. 2405

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2382

REPLACEMENT OF FACILITIES OF THE BOTANIC GARDEN

JUNE 28, 1956.—Ordered to be printed

Mr. GREEN, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 3881]

The Committee on Rules and Administration, to whom was referred the bill (S. 3881) authorizing the demolition and removal of greenhouses and other structures, and the replacement thereof, at the Botanic Garden, and for other purposes, having considered same, report favorably thereon with amendments, and recommend, that the bill, as amended, be passed.

This measure would authorize the appropriation of $587,000 for the purpose of demolishing and removing all existing greenhouses and other structures situated west of the present Botanic Garden conservatory on square 576 bounded by Maryland Avenue, Second Street, Independence Avenue, and Third Street SW, and their replacement with like, modern buildings at the Botanic Garden nursery on the grounds known as Poplar Point adjacent to the South Capitol Street Bridge. Construction at the nursery would also include a new boilerhouse.

The present greenhouses on square 576 contain the garden's famous orchid collection, miscellaneous plants and palms, and the bedding stock for the outdoor grounds. Other structures on the same square are used for storage, workshops, a garage, and as soil and fertilizer sheds. The major portion of the greenhouses and the other buildings are more than 75 years old and are now in poor condition despite many alterations, repairs, and remodeling in the past.

In the stuccoed building on the southwest corner of the square, the wooden girders carrying the floor joists are starting to split at one point of support. The frame building on Third Street is rotting at the street-floor line. Its roof is decayed and has settled about 16 inches in one place and is now supported on temporary wooden posts. Another roof on this street has settled about 6 inches in the center of

90004°—57 S. Rept., 84-2, vol. 4——59

the span and is also supported on wooden props. The one-story brick buildings along Maryland Avenue are out of line, vertically and horizontally. Some of the walls overhang 3 inches, in other spots they batter 2 inches. In many places there is no mortar in the joints and the bricks can be taken out of the wall by hand. All the cornices and eave boards on the Maryland Avenue buildings are decayed and the roofs held in place by either wooden posts or lally columns.

The structures, as a whole, constitute a hazard to the employees of the Botanic Garden as well as to the many tourists who are constantly visiting them. Cleared, their site would be landscaped into a park.

The estimate of $587,000 would demolish the buildings described, and construct, as their replacement, 8 greenhouses each 32 feet wide by 121 feet long, with a ¼-pitch glass roof, on the Poplar Point grounds. Part of the orchid collection would be moved to these greenhouses, the rest left in the present conservatory on Maryland Avenue. The boilerhouse at Poplar Point would be in the nature of a service building 16 feet wide and 250 feet long, having brick walls and a fireproof roof, and containing workrooms, a garage, lockers, soil rooms, and the boilerroom.

This proposed legislation has the unanimous recommendation of the Joint Committee on the Library under which the Botanic Garden has functioned since 1856. The amendments added to it by the Committee on Rules and Administration change the title and make certain minor corrections in the resolution's text.

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Calendar No. 2406

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2383

AMENDING THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

JUNE 28, 1956.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 10441]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 10441) to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to restrict its application to insurance which has been in effect at least 6 months prior to the date the insured entered into military service, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND OF THE BILL

The 76th Congress enacted the Soldiers' and Sailors' Civil Relief Act of 1940, which was approved October 17, 1940. During the 65th Congress, a similar law applying to World War I entitled "Soldiers and Sailors Civil Relief Act" was approved on March 8, 1918.

For the purposes of article IV (insurance) of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, World War II was deemed to have terminated July 25, 1947, in accordance with the provisions of section 4, Public Law 239 of the 80th Congress. The Selective Service Act of 1948, however (sec. 14 of Public Law 759 of the 80th Cong.), provided that all provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, shall be applicable to all members of the Armed Forces, including those thereafter inducted, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is "repealed or otherwise terminated by subsequent act of the Congress." The act has not been repealed or terminated and hence is in full force and effect today and applies to all persons called to perform military duty in one of the branches of the Armed Forces of the United States.

Article IV of the act provides that any person entering the Armed Forces may make application to continue to be protected by com-

mercial life insurance up to the amount of $10,000 during his term of service in 1 of the branches of the Armed Forces, and for 2 years thereafter, even if he cannot pay the premiums during the period of his service. In effect, the Veterans' Administration guarantees payment of premiums and interest thereon during the protection period, but the veteran is not thereby relieved of his obligation. If, prior to the end of the period, the amount which has been guaranteed is not paid and the Government pays any difference between that amount and the cash surrender value, the veteran owes to the Government the amount which it has paid to the insurance company. The veteran, in this event, has a debt charged against him collectible from any monetary benefits that may be due him by the United States, and if none are available, collection of the debt is undertaken by other appropriate means.

Between the start of the program in 1940 and the present time, approximately 90,360 policies have been guaranteed under this act. The Veterans' Administration has made an outlay of about $2,543,000, of which amount approximately $2,282,000 has been collected by the Veterans' Administration from veterans by setoff or otherwise. To the extent possible, the balance is in the process of being collected. It is clear that the program cannot be regarded as one of great magnitude, but rather, in view of the millions of persons who have served in the Armed Forces since 1940, it has been a small part of the Nation's programs for veterans.

EXPLANATION OF THE BILL

Recently there was called to the attention of a special investigating subcommittee of the House Committee on Armed Services the activities of an insurance company whose home office is in a Midwestern State, which was taking advantage of the act in a manner Congress had not contemplated at the time of its approval. Many prospective draftees were being sold two $5,000 life-insurance policies by an insurance agent who had obtained their names from a list. The insured paid a monthly premium of $5 or $10 at the time of the sale and in many cases gave a promissory note and also executed a power of attorney to the agent. After induction, the man who had purchased the policies was sent a post card by the insurance agent advising him he could receive an identification bracelet if he would provide the necessary information. When the insurance agent received the card containing the man's rank, serial number, and so forth, he then proceeded to exercise the power of attorney and secured from the Veterans' Administration the guaranty of the policy. Thus the insured had virtually no stake in the policy and the Veterans' Administration had guaranteed the amount through a procedure which the framers of the law certainly had not contemplated.

Section 400 (a) of the act provides that for the policy to be guaranteed by the Veterans' Administration, it must have been in effect not less than 30 days prior to the date the insured entered military service. The purpose of H. R. 10441 is to lengthen that period from 30 to 180 days so that the policyholder will have had to make, in most cases, a substantial cash outlay for an insurance policy, which could then be properly guaranteed, if he so desired, under the act. It is the belief of your committee that by the addition of this simple amendment the type of abuse described above will be substantially eliminated

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and its recurrence prevented. The amendment, however, would not impair the status of policies now protected under the act or applications for premium guaranties already made. By section 2 of the bill, its effect is limited solely to future applications.

Not only will there be no additional cost to the Government as a result of enactment of the bill but perhaps some losses will be averted.

The favorable report of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
Washington, D. C., June 1, 1956.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.

DEAR SENATOR HILL: This is in further reference to your request for a report by the Veterans' Administration on H. R. 10441, 84th Congress, an act to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to restrict its application to insurance which has been in effect 6 months at the time benefits are sought under such act, as passed by the House of Representatives on May 7, 1956.

The bill would amend subsection 400 (a) of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, to require that in order to qualify for Government guaranty of premiums a policy of commercial life insurance held by a person in the military service must have been in force not less than 180 days before the insured entered into the military service. The existing provision is that the policy must have been in effect not less than 30 days before entry into the service. The amendment would apply only to applications for Government guaranty of premiums made after it is enacted.

It is understood that this bill is intended to provide a safeguard against repetition of recent occurrences involving issuance and protection under the act of policies with relatively high premiums and low life-insurance benefits, which were issued on a monthly premium basis but a short time prior to the insured's entry into service. These situations involve application for protection under the Civil Relief Act made by the company on behalf of the insured pursuant to a power of attorney executed by the insured. The fear has been expressed that in some instances insureds have not been properly informed at the time of purchasing the policy and do not have a clear understanding of their repayment obligations under the law. The type of situations at which the bill is directed is generally reflected by the report of the Committee on Veterans' Affairs, House of Representatives, dated April 18, 1956, to accompany H. R. 10441 (H. Rept. No. 2012, 84th Cong.).

Article IV of the Soldiers' and Sailors' Civil Relief Act, as amended, provides that upon proper application the premiums and interest thereon with respect to certain types of private life-insurance contracts, not exceeding in an individual case the amount of $10,000 life insurance, shall be guaranteed for the period of military service and 2 years thereafter. If the amount guaranteed is not paid prior to the end of the protection period, the amount then due will be treated by the insurer as a loan on the policy, but if at the end of such period the cash surrender value is less than the amount then due, the United States is obligated to pay to the insurer the difference between that amount and the cash surrender value. Section 406 of the act, as amended, specifically provides that the amount paid by the United

States to an insurer on account of applications approved under article IV shall become a debt due to the United States by the insured, and that such indebtedness may be collected either by deduction from any amount due the insured by the United States or as otherwise authorized by law.

Entitlement to these benefits is not automatic, but requires the filing of written application. Only a small percentage of those engaged in military service have heretofore availed themselves of this assistance. This apparently results from the fact that the law merely provides a moratorium on premiums and interest payments and does not relieve against liability for repayment. Hence, there has been no particular financial advantage to be gained in most cases. An indication of the relatively small use made of this program which had its inception in 1940 is the fact that the total number of cases which had been approved for protection under article IV through the end of March 1956 was 90,356, and that as of the same date the total number of cases currently under protection was 1,013.

It is of interest to note the amount which has been paid throughout the life of the program by the Government to insurers under the Government guaranty. Such payments through the end of February 1956 amounted to a cumulative total of $2,542,373. However, very little actual loss has been sustained since there have been collections by the Veterans' Administration throughout the same period amounting to $2,281,992. About 60 percent of these collections have been through setoff against national service life-insurance dividends and the remainder through setoffs against other veterans' benefits or by way of direct remittances. Some items have been referred to the General Accounting Office for any possible collections which may be made through that agency.

An analysis of policies placed under the protection of the act during the past 6 months indicates that nearly all of them except those of the type heretofore mentioned and about which particular concern has been expressed were in force more than 6 months as of the date of entry into service. In the light of this experience, it may reasonably be expected that enactment of the bill would not have the effect of eliminating any considerable number of cases of insurance policies affording substantial life-insurance benefits and obtained under conditions of proper deliberation and full information shortly prior to entering the military service. This is, of course, dependent upon a continuation of present conditions of military service and induction. The situation at the time of the enactment of the basic law and its amendments was different, involving the wholesale mobilization of great numbers of persons with less time or opportunity to plan ahead. It seems probable, on the other hand, that the requirement that the insurance must have been in force at least 6 months prior to service will tend to curb hasty and ill-considered purchase of insurance in anticipation of Government protection under the act and without a full appraisal of the repayment obligations of the insured.

The effects of the bill on cost to the Government under this program cannot be estimated in any precise degree. It is believed that there would be a slight saving represented by the eventual cost of unrepaid claims on future cases which would be covered under the act as it exists but would not be eligible for coverage if this amendment is enacted.

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The current volume of applications for protection under article IV of the Soldiers' and Sailors' Civil Relief Act is exceedingly small, and the problem at which the bill is directed is necessarily limited under present conditions in terms of the numbers affected. However, it is recognized that abuses, however small in number, should be corrected to the extent feasible. Although it is quite possible that some worthy cases involving the purchase of insurance on a carefully planned basis shortly prior to entering military service will be excluded, it is believed, considered as a whole, that the beneficial effects of the bill would outweigh these possible detriments. Accordingly, the Veterans' Administration is of the view that the bill merits favorable consideration by the committee.

Advice has been received from the Bureau of the Budget that there is no objection to the presentation of this report and that in its report to the committee the Bureau recommended favorable consideration of the bill.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

CHANGES IN EXISTING LAW

In compliance of subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

ARTICLE IV PUBLIC LAW 861, 76TH CONGRESS, AS AMENDED

ARTICLE IV.—INSURANCE

SEC. 400 (*50 Appendix U. S. C. 540*). As used in this article—

(a) The term "policy" shall include any contract of life insurance or policy on a life, endowment, or term plan, including any benefit in the nature of life insurance arising out of membership in any fraternal or beneficial association, which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums if the insured engages in the military service of the United States as defined in section 101 of article I of this Act or which does not contain any limitation or restriction upon coverage relating to engagement in or pursuit of certain types of activities which a person might be required to engage in by virtue of his being in such military service, and (1) which is in force on a premium-paying basis at the time of application for benefits hereunder, and (2) which was made and a premium paid thereon before the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 or not less than [thirty] *one hundred and eighty* days before the date the insured entered into the military service. The provisions of this Act shall not be applicable to policies or contracts of life insurance issued under the War Risk Insurance Act, as amended, the World War Veterans Act, as amended, or the National Service Life Insurance Act of 1940, as amended.

(b) The term "premium" shall include the amount specified in the policy as the stipend to be paid by the insured at regular intervals during the period therein stated.

(c) The term "insured" shall include any person in the military service of the United States as defined in section 101, article I, of this Act, whose life is insured under and who is the owner and holder of and has an interest in a policy as above defined.

(d) The term "insurer" shall include any firm, corporation, partnership, or association chartered or authorized to engage in the insurance business and to issue a policy as above defined by the laws of a State of the United States or the United States.

SEC. 401 (*50 Appendix U. S. C. 541*). The benefits and privileges of this article shall apply to any insured, when such insured, or a person designated by him, or, in case the insured is outside the continental United States (excluding Alaska and the Panama Canal Zone), a beneficiary, shall make written application for protection under this article, unless the Administrator of Veterans' Affairs in passing upon such application as provided in this article shall find that the policy is not entitled to protection hereunder. The Veterans' Administration shall give notice to the military and naval authorities of the provisions of this article, and shall include in such notice an explanation of such provisions for the information of those desiring to make application for the benefits thereof. The original of such application shall be sent by the insured to the insurer, and a copy thereof to the Veterans' Administration. The total amount of insurance on the life of one insured under policies protected by the provisions of this article shall not exceed $10,000. If an insured makes application for protection of policies on his life totaling insurance in excess of $10,000, the Administrator is authorized to have the amount of insurance divided into two or more policies so that the protection of this article may be extended to include policies for a total amount of insurance not to exceed $10,000, and a policy which affords the best security to the Government shall be given preference.

SEC. 402 (*50 Appendix U. S. C. 542*). Any writing signed by the insured and identifying the policy and the insurer, and agreeing that his rights under the policy are subject to and modified by the provisions of this article, shall be sufficient as an application for the benefits of this article, but the Veterans' Administration may require the insured and insurer to execute such other forms as may be deemed advisable. Upon receipt of the application of the insured the insurer shall furnish such report to the Veterans' Administration concerning the policy as shall be prescribed by regulations. The insured who has made application for protection under this article and the insurer shall be deemed to have agreed to such modification of the policy as may be required to give this article full force and effect with respect to such policy.

SEC. 403 (*50 Appendix U. S. C. 543*). The Administrator of Veterans' Affairs shall find whether the policy is entitled to protection under this article and shall notify the insured and the insurer of such finding. Any policy found by the Administrator of Veterans' Affairs to be entitled to protection under this article shall not, subsequent to date of application, and during the period of military service of the insured or during two years after the expiration of such service, lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest.

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SEC. 404 (*50 Appendix U. S. C. 544*). No dividend or other monetary benefit under a policy shall be paid to an insured or used to purchase dividend additions while a policy is protected by the provisions of this article except with the consent and approval of the Veterans' Administration. If such consent is not procured, such dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer. No cash value, loan value, or withdrawal of dividend accumulation, or unearned premium, or other value of similar character shall be available to the insured while the policy is protected under this article except upon approval by the Veterans' Administration. The insured's right to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this article.

SEC. 405 (*50 Appendix U. S. C. 545*). In the event of maturity of a policy as a death claim or otherwise before the expiration of the period of protection under the provisions of this article, the insurer in making settlement will deduct from the amount of insurance the premiums guaranteed under this article, together with interest thereon at the rate fixed in the policy for policy loans. If no rate of interest is specifically fixed in the policy, the rate shall be the rate fixed for policy loans in other policies issued by the insurer at the time the policy brought under the Act was issued. The amount deducted by reason of the protection afforded by this article shall be reported by the insurer to the Administrator of Veterans' Affairs.

SEC. 406 (*50 Appendix U. S. C. 546*). Payment of premiums and interest thereon at the rate specified in section 405 hereof becoming due on a policy while protected under the provisions of this article is guaranteed by the United States, and if the amount so guaranteed is not paid to the insurer prior to the expiration of the period of insurance protection under this article, the amount then due shall be treated by the insurer as a policy loan on such policy, but if at the expirtation of said period the cash surrender value is less than the amount then due, the policy shall then cease and terminate and the United States shall pay the insurer the difference between such amount and the cash surrender value. The amount paid by the United States to an insurer on account of applications approved under the provisions of this article as amended, shall become a debt due to the United States by the insured on whose account payment was made and, notwithstanding any other Act, such amount may be collected either by deduction from any amount due said insured by the United States or as otherwise authorized by law. Any moneys received as repayment of debts incurred under this article, as originally enacted and as amended, shall be credited to the appropriation for the payment of claims under this article.

SEC. 407 (*50 Appendix U. S. C. 547*). The Administrator of Veterans' Affairs is hereby authorized and directed to provide by regulations for such rules of procedure and forms as he may deem advisable in carrying out the provisions of this article. The findings of fact and conclusions of law made by the Administrator of Veterans' Affairs in administering the provisions of this article shall be final, and shall not be subject to review by any other official or agency of the Government. The Administrator of Veterans' Affairs shall report annually to the Congress on the administration of this article.

SEC. 408 (*50 Appendix U. S. C. 548*). (1) The provisions of this article in force immediately prior to the enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942 (hereinafter in this section called "such provisions") shall remain in full force and effect with respect to all valid applications for protection executed prior to the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942 and all policies to which such applications pertain shall continue to be entitled to the protection granted thereby.

(2) Any insurer under a policy accepted under such provisions shall, subject to the approval of the Administrator of Veterans' Affairs and upon complete surrender by it to the United States, within ninety days after the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942, of all certificates issued in accordance with such provisions together with all right to payment thereunder, be entitled to the guarantee of unpaid premiums and interest thereon and the mode of settlement for such policies as provided by this article, as amended. The privileges and benefits granted by the foregoing sentence shall be in lieu of the method of settlement, and the requirement for accounts and reports prescribed by such provisions. In the event any such insurer fails to surrender within the said ninety days all such certificates and rights to payment, the accounts, reports, and settlements required to be made by such insurer under such provisions shall continue to be made as required and shall be governed by such provisions.

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Calendar No. 2407

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2384

AMENDING THE ATOMIC ENERGY ACT OF 1954 TO PERMIT THE NEGOTIATION OF COMMERCIAL LEASES AT ATOMIC ENERGY COMMUNITIES

JUNE 28, 1956.—Ordered to be printed

Mr. ANDERSON, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany H. R. 11926]

The Joint Committee on Atomic Energy, having considered H. R. 11926, to amend the Atomic Energy Act of 1954 to permit the negotiation of commercial leases at atomic energy communities, and for other purposes, do unanimously report favorably thereon, and recommend the bill do pass.

BACKGROUND

The atomic energy products at Oak Ridge, Tenn., Richland, Wash., and Los Alamos, N. Mex., are carried on in towns which, as of this moment, are all owned by the Federal Government. These towns comprise residences for their employees at the projects and commercial shopping centers. Under the Atomic Energy Community Act of 1955 a program was set up for the sale of the properties in Oak Ridge, Tenn., and Richland, Wash., to the citizens of the towns. The actual sales program at these two towns, which has been in preparation for nearly a year, has not yet been officially started.

Meanwhile, there are commercial leases in these towns and in the town of Los Alamos, N. Mex., which have not yet been brought under the terms of the Atomic Energy Community Act of 1955, which are expiring. The Commission is not renegotiating leases of these people who have formed an integral and beneficial part of the communities, but instead is reletting the concessions on a straight advertised-bid basis. In coming to the Commission communities to start needed commercial enterprises at those communities, the commercial lessees

uprooted themselves from their former surroundings and have now made major contributions to the success of these three new towns.

In letting these renewals out on a strictly bid basis, the Commission states that it is bound by the strict requirements of the advertising statutes, and therefore cannot consider the desirability of continuing the growth of the citizens in these towns.

The authority to operate and maintain these towns is incorporated in the chapter on the general authority of the Commission in subsection 161 e. This section now provides:

> SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—
>
> e. acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 174;

The reference to section 174 is merely a reference to the section requiring that the Attorney General approve title to real estate acquired under the act. Most of the powers of the Atomic Energy Commission are based on declarations, findings and purposes set forth in sections 1, 2, and 3 of the act, most of which relates to the common defense and security. The operations of these towns are indeed vital to the defense of our country in doing the research and manufacturing which is needed for atomic weapons. From these towns, too, spring the development of the peaceful uses of atomic energy. It is of the utmost importance to this program that the citizens of the towns not suffer undue dislocations. Thus, in the Atomic Energy Community Act of 1955, in establishing a program for the sales of the communities of Oak Ridge and Richland to the residents, section 11 c finds:

> To that end, it is desired at each community to—
>
> c. provide for the orderly sale to private purchasers of property within those communities *with a minimum of dislocation.*

Section 12 a of the same act has the finding:

> *The continued morale of project-connected persons is essential to the common defense and security of the United States.*

Section 13a states as a purpose of the act that it is to provide for—

> a. the maintenance of conditions which will not impede the *recruitment and retention of personnel essential to the atomic energy program;*

These purposes and policies are further amplified in the section of the Atomic Energy Community Act relating to the priorities for the sale of property. In this section, the Commission is required to

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establish rules and regulations for priorities for the sale of the property based on:

> (1) The retention and recruitment of personnel essential to the atomic energy program;
> (2) The minimization of dislocation of persons within the community * * *.

The local offices of the Atomic Energy Commission at each of the three communities are thoroughly acquainted with how the commercial lessees have been serving the communities and the extent to which the lessees have contributed to the life in those communities. It is proposed in this bill to give the Commission the authority to consider all of these contributions in deciding on the lessee while the Commission still owns the towns.

In a field which is less important to the national defense than atomic energy the Congress has permitted the negotiation of commercial leases. The Secretary of the Interior has given the following statutory grant with respect to entering into leases for commerical services on lands under the jurisdiction of the National Park Service:

> He may also grant privileges, leases and permits for the use of land for the accomodation of visitors in the various parks, monuments or other reservations, provided for under section 2 of this title, but for periods not exceeding twenty years; * * * and provided further, that the Secretary of the Interior may grant said privileges, leases and permits and enter into contracts relating to same with responsible persons, firms or corporations without advertising or securing competitive bids: * * *

The policies of the National Park Service are set forth in the statement of October 13, 1950.

In order to encourage concessionaires to make contributions to the communities, to remain in the communities, and to put investments into their stores, their trade and the community, the Joint Committee recommends the passage of this bill. Under its provisions the Commission may negotiate leases based not only on the return from the leases to the Government, but also on quality and type of services required by the residents—and in some instances, such as drug stores, the services required and 24-hour availability at the community—the experience of the concession applicant at this community or in its immediate area, the ability of the applicant to meet the needs of the community and the overall contributions he has made, or will make, to the community.

We are still providing for obtaining competitive proposals, but provide reasonable flexibility from formal advertising requirements.

The letter from the Atomic Energy Commission setting forth its position in not being able to base its consideration of the leases on these points is set forth below:

MARCH 8, 1956.

Hon. JOHN J. DEMPSEY,
Chairman, Subcommittee on Communities,
Joint Committee on Atomic Energy,
Congress of the United States.

DEAR MR. DEMPSEY: This letter will answer Mr. Norris' letter of December 15, 1955, asking the advisability of the Commission's general policy to advertise concessionaire leases upon expiration. It will also answer questions related to the Los Alamos situation which you raised in your telephone call to the Director of Military Application of January 4, and in your subsequent conference with Mr. Wampler and General Starbird on January 17. As a result of our subsequent discussion on this subject, the AEC has looked into the general policy question again. The following information is the result of that review.

In 1954 the Commission reviewed its policy with respect to leasing of concessions and decided that the terms of existing and future leases should be extended only for programatic reasons which support a conclusion that the extension by negotiation is necessary for the housing, health, safety, welfare of recreation of Commission and contractor personnel. The Commission's directives relating to the matter stated that negotiated extension was to be regarded as exception to the Commission's general policy of obtaining competition and that the programatic reason for any such exception must be clearly shown.

In reaching their policy decision, the Commission was influenced primarily by the general policy and practice of the Federal Government as exemplified by section 3709 of the Revised Statutes, which requires advertising for supplies and services. It was felt that the policy assured fair treatment to all interested members of the public and most favorable economic return to the Government for the facility and opportunity the Government provided. Additionally, it provided a means for meeting changing community needs (where Government facilities were limited) by bringing into existence higher priority types of services. The Chairman of the AEC forwarded the detailed statement of policy to the chairman of the JCAE by letter of January 29, 1954.

As to the Los Alamos situation, original leases under the Manhattan District and for several years thereafter were generally of short duration and renewed by negotiation. When the move to permanent areas became possible and in recognition that lessees would be involved in added expense if best service were to be provided, the Commission offered all incumbents extension to a lease of 10-year total duration. Thereafter, all accepted. At the present time, we have 40 major concessions leased at Los Alamos in Government facilities, all of a duration totaling 10 years. A large number are scheduled to expire in the next 2 years. The first of the 10-year expirations will be that of the Ferris Cleaners.

As General Starbird explained in the conference of January 17, various alternate solutions to that of readvertising the Ferris Cleaner lease have been proposed and investigated. As requested, I shall describe these briefly.

The first suggestion was that in view of the satisfactory service performed by the Ferris Cleaners, a negotiated extension be made.

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As explained in my letter of December 22, the circumstances indicate no programatic necessity for negotiated extension. Other cleaners serve Los Alamos and could handle the load during any temporary interruption. Negotiation in this first case would naturally lead all concessionaires to expect similar treatment, and in fairness would have to be given.

The proposal was then reviewed from the point of view of recommending the Commission permit negotiation at Los Alamos for all lessees. Neither my staff nor I believed such a course should be followed. It would, of course, depart from the basic principle of competition which was the basis of the Commission's decision. It would preclude others interested in competing for the opportunities available at Los Alamos. In this connection, a very large number of individuals and concerns have expressed a desire to compete on expiration of present leases.

A proposal has been made that the present leaseholders be given credit for the good will and investment they have made and be retained if their bid after advertisement is sufficiently close to that of the high bidder. Such a procedure would be, in my opinion, impossible to administer fairly and could be objected to strenuously by those who have expressed a desire to compete in the future. Using the alternate approach of allowing negotiations after bid opening and awarding to incumbent if he then met the bid of the highest responsible bidder would lessen the interest of others in submitting a bid. Further, it would, to all intents and purposes, relieve the incumbent of the necessity of making an original bid to be entered in the competition to establish fair Governmental return.

You also asked that we comment on the price to be set on equipment taken over by a future lessee but owned by the former leaseholder. Specifically, the questions involved the advisability that AEC appraise the equipment's worth, and require the new tenant to pay the amount concerned. I feel that this action would be an unwarranted interference with the natural negotiation of the buyer and seller. The former lessee does, of course, have the right to remove his equipment if he so desires. On occasion such removal may not be desired, and there is the definite possibility that the owner may be willing to sell at a reduced price. On the other hand, if the equipment is needed by the new lessee for satisfactory operation and is in satisfactory condition, it normally would be to his advantage to pay a fair value to avoid the necessity of procuring and installing new equipment.

It is the AEC's policy to assure that any concessionaire show ability to handle adequately the promised service prior to his receiving an award. This is necessary so as to provide best services to the communities that support our technical programs. It is our policy also to assure that the concessionaire knows exactly what he will be furnished and what he is to expect of the Government, for only thus will he receive fair treatment and be able to program his operation and costs. Subject to meeting these two objectives, it is our further effort to assure maximum return for the Government's investment in the facilities concerned.

Under these circumstances, I consider I must reaffirm the earlier decision that concessions, upon completion of termination of the lease agreement, be readvertised for competitive bids.

For your information, we have been informed by the Los Alamos area office that although the Ferris Cleaners had a full year remaining on their lease, they gave the AEC a 60-day notice of termination on February 1, 1956, and indicated an intention to bid on the concession when it was advertised by the AEC.

Sincerely yours,

R. W. COOK,
Acting.
K. E. FIELDS,
General Manager.

The committee has also received a letter from one of the leading citizens at Los Alamos with respect to this situation. That letter is:

Hon. CLINTON P. ANDERSON,
United States Senate,
Washington, D. C.

DEAR SENATOR ANDERSON: It has been a matter of considerable concern to a number of residents of Los Alamos that the method of granting concessions at Los Alamos has created an undesirable situation relative to the stability of the community. It has been generally indicated that no other policy would be adopted under the existing law and for that reason many of us have recommended that action be taken to provide for a better procedure in granting concessions. I am writing this letter as a private, and (recently) nonpartisan, citizen in support of the proposed legislation to grant the AEC authority to negotiate concession contracts similar to the authority existing in other Government agencies.

Some of the reasons for my support of that legislation are the following:

1. Whenever concessions are put out on bid, it is necessary for the AEC to accept the highest qualified bidder, and as a result the selected concessionaire often is required to pay a fee to the government far in excess of the value of the facility in which the concession is operated. Although this might appear to be of benefit to the Government, as a practical matter it is not. The purpose of the construction of the facility was to provide services to the people so that Los Alamos would approach a normal community as an inducement to the necessary personnel for the operation of the Los Alamos Scientific Laboratory. Obviously a concessionaire who overpays for a facility will either provide inadequate services or, more likely, will pass the increased costs on to the consumer, thus penalizing the very people for whom the facilities were constructed. Obviously the Government is not in the practice of establishing facilities of the private enterprise type to make money in lieu of taxes.

2. The merchants of Los Alamos as a group have made strenuous efforts to become integrated in the overall operation of Los Alamos and the contractor-operated Government programs. Because of State laws and the United States Constitution, the merchants are essentially the only commercial taxpayers in Los Alamos and provide a major source of income in the Government-owned Los Alamos County. Furthermore, because all other operations in Los Alamos County are Government reimbursed, the merchants have been solicited as a major supporter of most community enterprises. They have wholeheartedly

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cooperated and have created much good will. It is therefore disturbing to the community that these individuals who have done so much for Los Alamos should be forced to sacrifice the position that they have established in the community over so many years, by reason of open bidding on the termination of their original contracts. It further provides a general feeling of instability in the community, not only to the residents generally but to the employees of the concessionaires.

It is submitted that the AEC has full access to information as to the satisfactory performance of the existing concessionaires, as well as the value of the facilities and their reasonable rental value. Some of the concession facilities at Los Alamos have been granted on flat rent basis without bid, and an extension of that program is not unreasonable or too difficult to administer. The percentage-of-gross-rental method has been particularly bad and the recent changeover has not come too soon. Inasmuch as the AEC and Congress are considering the opening for sale of certain lands at Los Alamos, the exclusiveness previously granted to concessionaires will no longer apply because others may build their own facilities on such lands.

Very truly yours,

RALPH CARLISLE SMITH.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill accompanying this report are shown as follows (new matter is printed in italics):

SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—

e. acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of [section 174;] *section 174: Provided, however, that in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which are fair and reasonable to responsible persons to operate commercial businesses without advertising and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;*

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